



An  
Bord  
Pleanála

## Inspector's Report PL06F.247016

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<b>Development</b>	Demolition of existing office building and erection of 12 apartments over two floors in block facing Main Street and four floors in block facing Foster's Way
<b>Location</b>	27 Main Street, Swords, County Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F16A/0247
<b>Applicant(s)</b>	J. Coffey Developments (Ireland) Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	REFUSE
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	J. Coffey Developments (Ireland) Ltd.
<b>Observer(s)</b>	Brookclam Ltd.
<b>Date of Site Inspection</b>	26 <sup>th</sup> October 2016
<b>Inspector</b>	Niall Haverty

## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.0601 ha, is located on the eastern side of Swords Main Street and extends to Foster's Way, a street which runs parallel to Main Street.
- 1.2. The adjacent sites to the north and south feature separate buildings to the Main Street frontage and the Foster's Way frontage. In the case of the site to the south, the building facing onto Main Street comprises a hairdressing salon at ground floor level, restaurant at first floor level and offices above. A four-storey office building is located to the rear of this building fronting onto Fosters Way. In the case of the site to the south, a two-storey building fronts onto Main Street with retail units at ground floor level and office development overhead. A three storey building is located to the rear, with a restaurant at ground floor level and offices overhead. This building features a mansard roof with a large number of windows at first and second floor level along its southern elevation, facing into the appeal site.
- 1.3. Foster's Way (which is also referred to in some documentation as Forster Way or New Street) accommodates privately operated public car parking along both sides of the road, including in front of the appeal site. Much of the land on the eastern side of the road is also currently used for car parking, although as noted below there is extant planning permission for a comprehensive redevelopment of this area.
- 1.4. The appeal site itself is rectangular and currently accommodates a 1930s style two-storey former residential structure facing Main Street, which appeared to be vacant at the time of my site inspection. The building incorporates a pitched roof with projecting gable and circular bay windows at ground and first floor level. The structure has a red brick exterior at ground floor with pebbledash at first floor. The rear garden which is over 30 metres in length is currently undeveloped and overgrown. The Main Street site boundary is defined by a low wall and metal railings while the Foster's Way boundary is defined by a palisade fence.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the existing building on the site and the construction of a building containing 12 apartments over a ground floor

retail unit. The proposed building extends from Main Street to Foster's Way at ground floor level, with the apartments provided in two blocks overhead with a courtyard area at first floor level between the blocks. Access to the apartments will be from a stair/lift core and walkways centrally located within the courtyard.

- 2.2. The block facing Main Street is three storeys high and the block facing Foster's Way is five storeys high. The building is located over a double basement which provides 23 car parking spaces, cycle parking, storage and associated facilities. Vehicular access to the basement is from a car lift on the Foster's Way elevation. While the ground floor elevation on Main Street will feature a retail unit, the ground floor elevation on Foster's Way comprises various service doors and the car park entrance.
- 2.3. The apartments comprise 10 two bed units, 1 one bed unit and 1 three bed unit, all of which are dual aspect. The total gross floor area of the proposed development is stated to be 2,373 sq m, of which the retail unit is 295 sq m.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Fingal County Council decided to refuse planning permission for two reasons, summarised as follows:
  1. Proposed development would provide poor quality residential amenity and substandard communal open space.
  2. Proposed development would endanger public safety by reason of a traffic hazard due to substandard visibility splays and queuing for car park lift would result in on-street traffic congestion.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

- Proposed heights are in accordance with Swords Masterplan.
- Development will suffer from poor sunlight and daylight penetration due to orientation of site and adjacent development.

- No design statement or photomontages have been provided and development does not therefore comply with Objective UD01.
- Apartment sizes and floor to ceiling heights are compliant with Development Plan and Department Guidelines. Adequate private open space is provided. Shortfall in public open space provision can be addressed with a financial contribution.
- Storage provision within apartments is inadequate and it is not clear if storage areas in basement are for apartment use.
- Proposed development provides a poor level of recreational open space for future residents. Courtyard area will be in shadow for most of the day and height of adjacent buildings will make this a dark and uninviting space.
- Proposal will have negative impact on amenity of building to north due to overshadowing of windows on its southern elevation.
- Lack of information on façade treatments.
- Requirement for up to 18 parking spaces. 5 of the proposed 23 spaces appear to be inaccessible.
- Use of a car lift would result in delays for residents in the AM peak and queueing of cars to enter the site would cause congestion on Foster's Way.
- Foster's Way is privately owned and existing privately owned car parking prevents access.
- Proposed development would be a traffic hazard due to inadequate sightlines at the proposed access.
- Development of site is desirable but would require greater retail/commercial mix due to constraints.

### 3.2.2. Other Technical Reports

- Water Services: No objection subject to conditions.
- Environmental Health: No objection subject to conditions.
- Irish Water: No objection subject to conditions.
- Housing Department: Proposal set out in application form is acceptable.

- Transportation: Refusal recommended as per Planner's Report

### 3.3. Prescribed Bodies

#### 3.3.1. Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs

- Site is within zone of archaeological potential around the town of Swords.
- Archaeological Impact Assessment should be prepared and submitted as further information.
- No decision should be made prior to submission of AIA, to allow informed recommendation by Devt. Applications Unit.

### 3.4. Third Party Observations

#### 3.4.1. One third party observation was made on behalf of Brookclam Land Ltd. The issues raised can be summarised as follows:

- Observer has planning permission to develop lands on Foster's Way and wishes to ensure that there is no negative impact on this development.
- Contrary to application drawings, the car park and road on Foster's Way are privately owned and are part of the observer's site. Planning Authority has no ownership rights or jurisdiction over this road.
- No access can be obtained to the site from Foster's Way due to the existence of privately owned car parking spaces. No letter of consent included with application.
- Proposed development will result in traffic congestion on Foster's Way and impact on observer's car park operation. Deliveries to retail unit would require a loading bay.
- Nature and location of connection to foul sewer is not clear from application.
- No information on surface water management and basement flood risk provided.
- Development does not comply with Development Plan objectives for open space for apartments.

## 4.0 Planning History

### 4.1. Subject Site

- 4.1.1. **PL06F.245438/Reg. Ref. F15A/0304:** Permission refused for demolition of existing building and erection of a five storey building containing 16 apartments and a retail unit. The reasons for refusal related to impacts on visual and residential amenities as well as traffic hazard and congestion on Foster's Way.
- 4.1.2. **PL06F.220837/Reg. Ref. F06A/0198:** Permission granted for the demolition of the existing building and the construction of a part 4 and part 5 storey mixed use development (retail, restaurant and office). This permission was not implemented and has expired.

### 4.2. Adjacent Sites

- 4.2.1. Details of various planning applications related to the adjacent sites to the north and south are referenced in the Planner's Report.
- 4.2.2. The observer has planning permission (Reg. Ref. F08A/0884) for a significant mixed use development of c. 9,800 sq m on the eastern side of Foster's Way, opposite the appeal site. The development has not yet commenced, and the duration of the permission has been extended until April 2019.

## 5.0 Policy Context

### 5.1. Fingal Development Plan 2011-2017

- 5.1.1. The appeal site is zoned 'MC', to protect, provide and/or improve major town centre facilities in the Fingal Development Plan 2011-2017. Mixed use developments in the form of residential and retail use are permitted in principle within this zoning objective. The zoning map indicates that the site is within a zone of archaeological potential.
- 5.1.2. Swords is designated as a Metropolitan Consolidation Town and the Development Plan sets out a series of Objectives to promote development in Swords town centre.

Objective SWORDS7 states that this development should be in accordance with the Swords Masterplan 2009.

- 5.1.3. Objective UD01 requires a detailed design appraisal for development in excess of 5 residential units, while Tables RD02 and RD03 set out minimum room sizes and areas for apartments.

## 5.2. **Swords Masterplan 2009**

- 5.2.1. The Swords Masterplan sets out a vision for various parts of Swords town. With regard to the appeal site, the Masterplan states that all new developments along Main Street are to respect the existing parapet heights of 1-3 storeys, however this height may graduate to 3-5 on Foster's Way.
- 5.2.2. In terms of urban design, the Masterplan states that a high solid to void ratio and windows with a vertical emphasis should be utilised on Main Street to respect the existing character of the street. It also states that flat roofs should be avoided on Main Street.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

- 6.1.1. The grounds of appeal can be summarised as follows:
- Inner courtyard area is not compromised space. Opposing windows are 22m apart in line with normal planning criteria.
  - Two block solution allows both street edges to be reinstated. Differing heights have regard to context of both streets.
  - Three storey height on Main Street results in height of two storeys at first floor courtyard level, allowing western light into this space.
  - Reference in Planner's Report to a layer of commercial over the shop unit to counteract overshadowing would result in a further requirement for dedicated staircases and lifts due to fire services act.

- Basement is a vehicle storage area rather than a full car park. Vehicles will be entering/leaving at low speed. Access and egress will be safe as there will be no reversing movements. Precedents for car lifts provided to Planning Authority.
- Car park entrance could be moved to other side of Foster's Way elevation to achieve statutory minimum sightlines.
- Provision of a car waiting facility addresses issue identified in previous refusal.
- Proposed development was the subject of detailed engagement with the Planning Authority prior to lodgement.

## 6.2. **Planning Authority Response**

- 6.2.1. Planning Authority response is generally as per Planner's Report. They request that a financial contribution be applied if permission is granted.

## 6.3. **Observations**

- 6.3.1. One third party observation was made on behalf of Brookclam Land Ltd. The issues raised were generally as per their observation on the planning application.

## 7.0 **Assessment**

- 7.1. I consider the key issues in determining this appeal are as follows:
- Residential Amenity
  - Roads and Traffic
  - Layout and Design
  - Other issues
  - Appropriate Assessment



## 7.2. Residential Amenity

- 7.2.1. The Planning Authority refused permission on the basis that the proposed development would provide poor quality residential amenity to the future occupants of the apartments and substandard communal open space. The applicant contends that a high level of residential amenity can be provided, and that the separation distances between the blocks and the open space provided is adequate.
- 7.2.2. No shadow analysis was submitted with the planning application or appeal, however it is clear from the design and orientation of the proposed development and the site context that a significant amount of overshadowing will occur. The two blocks of apartments, including their balconies, are c. 18m apart, and the maximum width of the courtyard is c. 11m. The presence of the stair/lift core and the centrally located walkways within the courtyard will further reduce its size and quality and exacerbate overshadowing. As a result of this constrained area, and the presence of the proposed block to the east which extends four stories above this open space and the existing four storey office block immediately to the south, I consider that there will be significant issues with sunlight/daylight penetration into the courtyard, and that the majority of this communal open space will likely be in shadow for most of the day.
- 7.2.3. I therefore concur with the Planning Authority that the communal open space provided, while acceptable from a quantitative viewpoint, is not acceptable from a qualitative viewpoint as a result of the restricted dimensions of the courtyard together with the height and design of the proposed development and the close proximity of large buildings surrounding the site.
- 7.2.4. With regard to overlooking, while the Development Plan's required separation distances of 22m between opposing windows is achieved, this is reduced to c. 18m between opposing balconies. The Development Plan also states that, in the case of residential development of over two storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs. The proposed development in this instance is between three and five storeys high (or two and four storeys above courtyard level, respectively). Having regard to the level of overshadowing which will occur and the extent of glazing on the directly opposing windows between habitable rooms and private outdoor balconies, I consider that separation distances above the minimum standard of 22m would be appropriate in

this instance. I concur with the Planning Authority that the proposed separation distances are inadequate and will result in overlooking which will serve to further diminish the residential amenity of future occupants of the proposed development.

### **7.3. Roads and Traffic**

- 7.3.1. Foster's Way is a busy street which runs parallel to Swords' Main Street, providing an important support function by reducing traffic congestion on the Main Street and accommodating a number of privately operated public car parks
- 7.3.2. The two levels of basement car parking associated with the proposed development are intended to be accessed via a vehicle lift on the Foster's Way elevation. The lift is recessed within the structure, providing an off-street waiting area for one car entering the development. The applicant states that the proposed basement is a 'car storage area' rather than a full car park. However, they have not elaborated on what this means in terms of its operation. It appears to me to be a standard basement car park to serve apartments, albeit with access via a car lift rather than a ramp.
- 7.3.3. I note that the existing and proposed Site Layout Plans submitted with the application do not correctly represent the existing site context on Foster's Way. The four storey office building immediately to the south of the appeal site is not shown on the Site Layout Plans, and it instead appears as if that site boundary is aligned with the appeal site. However, as can be seen on the Site Location Map, the existing office building actually steps out c. 3.5m relative to the front elevation of the proposed development. As a result, there would be no visibility to the right of oncoming vehicular and pedestrian traffic as one exits the proposed car park.
- 7.3.4. The applicant has suggested that the car park entrance could be moved to the other side of the Foster's Way elevation, but has not supplied any information to demonstrate that this would allow adequate sightlines to be achieved. Moving the car park entrance would have knock-on consequences for the design of the building and would likely require the five storey lift/stair core to be moved to the other side of the site. This is the highest element of the development and I do not consider it appropriate to impose such a significant design change by way of Condition, as it could give rise to significant third party concerns.

- 7.3.5. With regard to traffic congestion, while there is an off-street waiting area for one vehicle seeking to use the lift, I concur with the Planning Authority's Traffic Department that the operation of the car lift over two levels of basement is likely to cause interruption to the free flow of traffic on Foster's Way, as a result of cars queuing on the roadway to enter the car lift.
- 7.3.6. In conclusion, and on the basis of the information submitted with the application and appeal, I consider that the proposed development would endanger public safety by reason of traffic hazard because of the poor vision splays afforded to traffic egressing the development, and furthermore, that queuing for the proposed car lift would give rise to on-street traffic congestion that would interfere with the efficient operation and free flow of traffic along Fosters Way.

#### 7.4. **Layout and Design**

- 7.4.1. The height of the proposed development on both the Main Street and Foster's Way elevations (i.e. three storeys to Main Street and five storeys to Foster's Way) is consistent with the Swords Masterplan, albeit that the number of storeys on both elevations is at the top of the maximum permissible range. Having regard to the site context and the height of neighbouring buildings, I consider the proposed heights to be acceptable in this instance. I also consider the reinstatement of the streetscape to both streets to be an appropriate and desirable design solution for the appeal site.
- 7.4.2. Notwithstanding this, however, I do not consider the design of the Main Street elevation to be compliant with the provisions of the Swords Masterplan, which seeks a high solid to void ratio, a vertical emphasis for windows and the avoidance of flat roofs in order to respect and enhance the existing historic character of the street. The proposed Main Street elevation has a strongly horizontal emphasis, with a protruding first floor brickwork element with extensive horizontal banding above. The windows are also horizontal in emphasis and excessively scaled, resulting in a poor solid to void ratio windows and a flat roof is proposed. I consider that the design is contrary to the design guidance set out in the Masterplan and fails to protect and enhance the character and legibility of the historic Main Street.
- 7.4.3. With regard to the Foster's Way elevation, I note that the street is developing as a secondary retail/commercial street and that there is an extant permission for a large

development opposite the appeal site, with ground floor active uses. That site is also designated as Opportunity Site 5 in the Swords Masterplan, which includes a requirement for increased frontage and surveillance along Foster's Way. In contrast, the proposed development essentially treats Foster's Way as a service laneway and does not provide any active uses at ground floor which fails to support the Masterplan's vision of an active and vibrant street parallel to the Main Street.

- 7.4.4. The stair/lift core which is located between, and separated from, the two apartment blocks will be the highest element of the development, protruding c. 6.7m above the Main Street elevation. It is not clear what the finishes of this element are, and I consider that it has the potential to be an incongruous and visually obtrusive addition to the streetscape and roofscape when seen from Main Street. This is a sensitive location in a historic town centre setting, and I consider that photomontages would be useful in assessing the visual impact of the proposed development.
- 7.4.5. Having regard to the above, I consider that the proposed development would be out of keeping with the pattern of development in the vicinity, would be contrary to the provisions of the Swords Masterplan 2009 and would set a precedent for further development of this type.

## 7.5. **Other Issues**

### 7.5.1. **Land Ownership/Access**

The observer to the appeal contends that this area of Foster's Way is in their ownership and that access to the proposed car lift will not be possible as a result of their existing on-street car parking spaces in front of the site. This is a civil/legal matter rather than a planning matter as a person shall not be entitled solely by reason of a permission to carry out any development.

### 7.5.2. **Archaeology**

The DAHRRGA made a submission to the Planning Authority, seeking that an Archaeological Impact Assessment be requested from the applicant, and that no decision be made until it is submitted and assessed by the Department. As I am recommending refusal on other grounds, I do not consider that this issue requires further assessment at this time. However, if the Board is minded to grant

permission, I recommend that an appropriate pre-commencement Condition be attached.

## **7.6. Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development, which comprises an infill development in a serviced town centre location outside of any Natura 2000 sites, I do not consider that any Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission should be refused for the reason set out below.

## **9.0 Reasons**

1. The proposed development would, by reason of its design and layout, be out of character with the pattern of development in the area, would be contrary to the provisions of the Swords Masterplan 2009 and would seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the layout and design of the proposed development would result in significant overlooking between the apartment blocks and the provision of substandard communal open space by reason of excessive overshadowing and inadequate daylight and sunlight penetration. The proposed development would, therefore, seriously injure the amenities of the future occupants of the proposed apartment blocks and would be contrary to the proper planning and sustainable development of the area.
3. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the poor visibility splayed afforded to traffic egressing the development onto Fosters Way. Furthermore, queuing for

the proposed vehicle lift for traffic accessing the basement car park could give rise to on-street traffic congestion that would interfere with the operation and free flow of traffic along Fosters Way. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Niall Haverty  
Planning Inspector

28<sup>th</sup> November 2016