



## Development

Planning permission is sought for the demolition of the former Swiss Cottage Bar and Restaurant structure and the rear wall and part of derelict dwelling (Pinecroft) on Schoolhouse Lane, and the construction of a 3 storey mixed use structure comprising 1 no. retail/commercial unit and 1 no. takeaway unit at ground floor level, 1 no. two storey restaurant/cafe unit at ground and first floor level and 1 no. retail/commercial unit at ground and first floor level, office accommodation (277 sq.m) at first floor level and 1 no. licensed retail convenience/discount foodstore (1,165 sq.m net sales area) including off licence and ancillary services (plant room etc.) with terrace at second floor level. Permission is also sought for the relocation of the

existing entrance off Swords Road to access the proposed surface level undercroft car park which provides for 80 no. car parking spaces with 9 no. on street parking spaces on Swords Road and Schoolhouse Lane, 20 no. bicycle spaces at surface level on Schoolhouse Lane, elevational signage, landscaping, esb substation, switch room etc., bin store, boundary treatments and all ancillary site and engineering works necessary to facilitate the development.

<b>Location</b>	Junction Swords Rd. and Schoolhouse Lane, Santry, Dublin 9.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	4211/15
<b>Applicant(s)</b>	Quaypoint Properties Ltd.
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Grant Permission with conditions
<b>Type of Appeal</b>	Third Party – V - Grant
<b>Appellant(s)</b>	Declan Myers
<b>Date of Site Inspection</b>	9 <sup>th</sup> December 2016
<b>Inspector</b>	Tom Rabbette

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## 1.0 Site Location and Description

The appeal site lies c. 6 km to the north of Dublin City Centre. It is located at the junction of Swords Road and Schoolhouse Lane in Santry in Dublin 9. Swords Road runs along the western boundary of the site and Schoolhouse Lane along the northern boundary. There is a single-storey commercial building on the site. It appears it accommodated a restaurant and bar in the past but it is in partial use currently. There is also an unoccupied dwelling on the site in the north-east corner, this somewhat dilapidated dwelling has frontage onto Schoolhouse Lane. There is surface car parking on the site along its southern and eastern boundaries, this is accessed off the Swords Road. There are retail and commercial premises to the north and south of the application site on the eastern side of the Swords Road. These existing premises are predominately two-storey. There are established residential areas to the north-east, east, south-east and south of the application site. On the western side of the Swords Road across from the application site, there are larger industrial-scale structures, one to the north-west of the site accommodates a builders' merchants and the structure immediately across the Swords Road from the site appears to be a warehouse. Both of those sites have frontage onto the Swords Road but are accessed via Santry Avenue to their north. There is a two-storey office development to the south-west of the application site, that office development is accessed off the Swords Road. To the south of that office development there is an AIB building also accessed off the Swords Road. There is a south-bound bus lane running along the application site's frontage on the Swords Road. There is a bus-stop immediately to the north of the site on the east side of the Swords Road and a bus-stop on the western side of the Swords Road immediately in front of the application site. There is on-street parking in front of the site.

## 2.0 Proposed Development

- 2.1. The applicant is proposing to demolish the existing structures on the site and to construct a three-storey commercial building. The new structure will accommodate an anchor-type licensed retail convenience/discount foodstore of 1,165 sq.m. net sales area on the top (second) floor which will be accessed via a traveller. The other uses to be accommodated in the building include 1 no. retail/commercial unit and 1 no. takeaway at ground floor level which will front onto the Swords Road. The

entrance to the top floor discount foodstore will also front onto the Swords Road at the north-west corner of the site. A two-storey restaurant/café unit with frontage at ground floor level onto the Swords Road is also proposed. Office use is proposed at ground, first and second floors. The applicant is seeking permission to relocate the existing vehicular entrance off the Swords Road to a location further north approximately in the middle of the site's frontage onto the Swords Road. An undercroft surface car park is proposed at ground floor level and will accommodate some 80 cars. Bicycle parking is also proposed. The development proposal also includes for signage, landscaping, an esb substation, a switch room and bin storage along the southern site boundary.

- 2.2. The planning application form on file indicates that the retail component is for 1,478 sq.m. gross floor area, the restaurant/café/takeaway component accounts for 334 sq.m. gross floor area and the office component is 277 sq.m. gross floor area. The proposed plot ratio is given as 1.14 and the site coverage is given as 53%.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

By Executive Order the p.a. decided to grant permission for the proposed development subject to 17 conditions.

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

##### 3.2.1. Planning Reports

Planner's Report dated 12/02/2016:

- FI recommended in on 11 items.

Report dated 28/07/2016:

- FI response considered.
- Permission recommended subject to conditions.

##### 3.2.2. Other Technical Reports

Environmental Health Officer DCC Report dated 11/01/2016:

- Conditions recommended in the event of a grant of permission.

City Archaeologist's Report dated 13/01/2016:

- Site should be archaeologically monitored.
- Condition recommended.

Engineering Dept. – Drainage Division Report dated 15/01/2016:

- No objections, conditions recommended.

Waste Regulations Unit Report dated 28/01/2016:

- Conditions recommended.

Roads & Traffic Planning Report dated 19/07/2016:

- FI response noted and considered.
- No objection subject to conditions.

PAC 0093/15 and 0076/15 Pre-application consultations:

- Issues raised: minimum of 3 storeys to Swords Road; incidental open space; articulated truck access; noise generated; possible student accommodation; cycle facilities; public transport, and residential amenity.

### 3.3. **Third Party Observations**

Observations/objections on file addressed to the p.a. make reference to the following: delivery of a pedestrian crossing in the area (Swords Rd / Magenta Crescent junction); welcome proposal for the site; provision of convenience shopping; good public transport connections; excessive quantity of car parking; better use of space preferable than car parking (more development); bike stand welcomed but would benefit from shelter/canopy; dull architectural design; another discount store, one already on Santry Lane and 2 at the Omni Centre; Swords Rd. extremely busy, proposed development will exasperate that; over-provision of discount retailers in Santry area; existing traffic congestion in the area; height will lead to overshadowing of adjacent properties; eyesore in Santry village; inadequate on-site car parking; need for another convenience retail unit questioned; concerns raised in relation to retailing impact on the area; previous development proposal was

denser; proposed development is an inefficient use of available lands, and concerns as to the viability of the proposal.

#### 4.0 **Planning History**

4215/15: The p.a. granted the current applicant permission for the demolition of an existing dwelling and the construction of 5 no. residential dwellings and associated works on a site adjoining the current appeal site to its north-east. That decision was issued after the p.a. issued its decision on the application subject of this appeal. The site in 4215/15 formed part of the application site that was subject of 4191/10 referred to below.

PA Ref. 4191/10 (PL 29N.239685): The Board issued a split decision in relation to a proposal for a 10-year permission for the demolition of public house/restaurant, off license, house and factory and the construction of a mixed-use development, new access road, 115 car parking spaces and associated works. The history file is travelling with the current appeal file.

PA Ref. 6816/07 (PL29N.228479): The Board refused permission for a mixed use development on the appeal site which included 94 residential units, seven retail units, crèche, two restaurants and a public house. The Board refused permission for the development on two grounds:

- i. The development, by virtue of its height and scale, massing and density and its position forward of the established building line on the Swords Road would represent overdevelopment of the site and would have an adverse impact on the character and visual amenity of the area, thereby seriously injuring the amenities of the area and of the property in the vicinity.
- ii. Having regard to the general proximity of the proposed development to the site boundaries and the pattern of development in the area, which included a pre-dominance of two storey residential properties, it was considered that the development would have an overbearing impact on neighbouring property and adversely affect the development potential of other zoned land in the vicinity.

PA Ref. 6420/05: The planning authority granted permission for the re-development of the existing factory on the appeal site (at the corner of Schoolhouse Lane and

Magenta Crescent), to comprise the demolition the existing building and the construction of 10 residential units in a three storey block over a basement area.

## 5.0 Policy Context

### 5.1. Development Plan

The operative plan for the area is the Dublin City Development Plan 2016-2022. The Board should note that this statutory plan has come into effect after the p.a. decision on the current application and after the appellant submitted his appeal. The application site is zoned Z3 'To provide for and improve neighbourhood facilities' as per Map B of the new CDP. Section 14.8.3 of the written statement outlines the aims of this land use zoning objective and also lists 'permissible uses' and 'open for consideration uses' in relation to Z3 zoned lands. A copy of that relevant section is in the attached appendix. Chapter 7 of the written statement refers to 'Retailing'. It contains a number of policies and objectives that are of relevance when considering applications for retail development. A copy of that chapter is also contained in the appendix attached to this report for ease of reference for the Board. Car parking standards are addressed under section 16.38 and associated Table 16.1.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Mr Declan Myers c/o Centra, Coolock Lane, Santry, Dublin 9

The contents of the third party's grounds of appeal can be summarised as follows:

- The Board is requested to refuse permission for the proposed development.
- The development is inappropriate in the context of the site's location and the planning context for the area.
- The p.a. has not adequately assessed the proposed development against the requirements of the relevant statutory documents and the existing built context.



- The proposed development is yet another discount retail development for this area that has incorporated inappropriate transport planning issues that will prevent the successful operation of this site as a significant retail development and therefore should be refused permission.
- Description of the surrounding context given.
- Development description given.
- Refers to the planning history pertaining to the site, 4191/10 (PL 29N.239685).
- The mix of development previously proposed is more suitable to this area than that now proposed.
- The grounds of appeal relate to: oversupply of retail floor space; inappropriate design; contrary to policy and zoning objectives, and traffic and transportation issues.
- The applicant indicates in the RIA that the catchment area has an available convenience turnover of €16,063,201 up to 2018.
- The proposed development will generate a stated turnover of €14,769,870.
- Based on these figures the proposed development will meet nearly all of the retail convenience needs of the catchment up to 2018.
- This would reduce the possibility of other convenience development in the catchment area until after 2018, which is a highly unsuitable scenario.
- The appellant indicates on an aerial photograph the existing supermarkets in the surrounding area.
- The design of the proposal is not appropriate in the existing setting.
- The design of the building is inappropriate in the context of the character of the area and is incongruent for the subject site.
- The provision of a large surface car parking area to the rear and undercroft of the site accommodating 80 car spaces is a poor approach to land use for a key site and is inappropriate for the character of the area.
- The proposal is contrary to Objective RD19 of the CDP.

- The provision of a discount supermarket at this site is contrary to the maintenance of the existing district centre at the Omni Shopping Centre through the overprovision of convenience retail in the local catchment area.
- The previous application established a residential element on the subject site which is far more suitable and necessary in the wider context of housing need.
- Citing the Dublin City Retail Strategy and noting the existing level of retail floorspace in the area, the appellant holds that the subject proposal is out of scale for the existing development context.
- The access difficulties on the already heavily trafficked Swords Road cannot be summarily dismissed in terms of the suitable accessibility of the subject site.
- While the right turning bay into the site will allow a longer right turning lane, it will not eliminate the conflict of right turning vehicles in and out of the development.
- The proposed development on its own merits does not provide an appropriate design solution at this location in terms of traffic and transportation.
- The considerably car based nature of the development gives cause for concern.
- The proposed development delivers close to the maximum level of car parking facilities to serve the overall development, 90 are required and 85 are provided.
- Although the CDP standards are noted as maximum, the almost maximum number of car parking spaces is considered significant and makes this a primarily car based development.
- Citing the applicant's trip generation figures provided in the Traffic and Transportation Assessment, the appellant asks the Board to satisfy itself that this would constitute a sustainable development proposal in the context of the transport and access requirements for neighbourhood centre zoned lands.

- The Board is asked to refuse permission based on the lack of a safe and clear transport planning resolution for the site and the oversupply of retail supermarkets in the surrounding catchment.
- A review of the strategic planning context for the site is detailed with reference to the: Regional Planning Guidelines for the GDA (2010-2022); Retail Planning Guidelines (2012); Retail Strategy for the GDA (2008-2016), and Dublin City Retail Strategy (Appendix 4 of the CDP 2011-2017).
- The subject proposal provides for a discount retail use that is already available in abundance in the area.
- The proposal has failed to deliver an appropriate use at this key town centre location.
- The Omni Centre (which is the closest to the subject site) is defined as a district centre in the Dublin City Retail Strategy.
- New development should be cognisant of the established district centres and the capacity for new retail development.
- The proposal does not deliver on the sequential approach of the Dublin City Retail Strategy and is an inappropriate location for the proposed development that is already well provided for in terms of convenience retail.
- The appellant cites section 15.10.3 of the CDP 2011-2017.
- Considering the level of convenience discount supermarkets in the area, the proposed retail use is not appropriate at this location under the Z3 zoning.
- Part of the site is located within the Z1 zone.
- The appellant cites section 8.4 of the CDP 2011-2017.
- The proposed scheme will threaten the existing retail offering in the locality.
- The need for an additional convenience supermarket is questionable and hasn't been suitably justified by the applicant.

## 6.2. Applicant's Response

The contents of the applicant's response to the grounds of appeal can be summarised as follows:

- Permission is being sought for the redevelopment of an infill site which comprises of an underutilised building that is obsolete and unoccupied.
- The proposed elevational treatment of the structure is such that the structure reads as essentially two separate structures and is connected only at second floor.
- High quality landscaping is proposed.
- The design proposal provides for a high quality aesthetically pleasing neighbourhood centre with significant hard and soft landscaping considerably increasing the visual amenity of the area.
- The development fully complies with the CDP 2011-2017.
- The proposed retail development is located on lands zoned as Neighbourhood Centre and thus are sequentially the most appropriate location for retail development noting the Retail Planning Guidelines which state that retail development should be located within neighbourhood centres.
- It fully accords with the Retail Strategy for Dublin.
- The lands are easily accessible with public transport in the form of Dublin Bus services readily available.
- The development will significantly increase the viability and vitality of the area noting that the lands are currently vacant and unoccupied.
- The development of this designated neighbourhood centre is in compliance with national, regional and local planning policy.
- It is a prominent location and a gateway site.
- There are public footpaths along the R132 Swords Road and cycle lanes along the bus lanes.
- The existing road network can easily accommodate the development and all existing infrastructure can accommodate the proposed development.

- Whilst it is noted that there is an existing Tesco and Lidl (at the Omni Centre), it must be acknowledged that in order for competition between retailers to operate sufficiently, residents/consumers should have a reasonable choice between providers.
- It is the applicant's contention that the appeal is primarily anti-competitive and intended to protect alternative establishments and/or development sites from this competing proposal.
- The proposal is for a mixed use development and is not solely a retail development.
- It is not for solely a retail discount foodstore.
- In terms of uses proposed, the current proposal is similar to that previously proposed, at a smaller scale in order to comply with relevant standards and provide for a high quality development that addresses the previous reasons for refusal in relation to design on the lands.
- The main tenants of the Board's decision on 4190/10 was in relation to design, the applicant took this on board in the current application.
- As part of the application, a Retail Impact Assessment was conducted which clearly assesses all retail floorspace within the surrounding area.
- The proposal didn't require a RIA.
- The RIA clearly demonstrates that the development can be accommodated.
- The surrounding uses in the immediate area of the development include a pharmacy, lettings agent, tanning salon, betting office, Polish store and a takeaway.
- The proposed development will support these uses by attracting increased footfall to the area.
- The Tesco and Lidl at Omni are a District Centre and are a separate designation to the current lands.
- The proposed development seeks to regenerate and reinvigorate the neighbourhood centre and acts as the focal point for the surrounding area.

- The provision of car parking to the rear has increased the aesthetic appearance of the development in the streetscape.
- The proposed development fully complies with Objective RD19.
- The traffic and transport aspects of the development were assessed by the Traffic and Transportation Department who met the applicant on several occasions prior to the submission of the Additional Information response.
- The subject lands are not a town centre site, they are a neighbourhood centre site.
- The development does not conflict with: the Regional Planning Guidelines for the GRA; the Retail Planning Guidelines (2012); the Retail Planning Strategy for the GDA; the Dublin City Retail Strategy, and the CDP zoning.
- The Board is asked to uphold the p.a. decision.

### 6.3. Planning Authority Response

- There is no response on file from the planning authority at time of writing.

### 7.0 Assessment

I have examined all the plans, particulars and documentation on file. I have carried out a site inspection. I have had regard to relevant provisions of the new statutory development plan for the area, in my opinion the main issues arising are as addressed hereunder.

#### Over Supply of Retail Floorspace

- 7.1. The proposal is for 1 no. retail convenience/discount foodstore, 2 no. retail/commercial units, 1 no. café/restaurant unit, 1 no. takeaway, and office space to be accommodated in a 3 storey building. In terms of the retail floorspace, the appellant's primary focus and concern relates to the proposed licensed retail convenience/discount foodstore which has a stated net sales area of 1,165 sq.m.

The appellant holds that there was no assessment by the p.a. of how the proposed development relates to the existing discount retailers located 300-400 m from the

subject site and further beyond in the catchment. The appellant submits an aerial view indicating the existing supermarkets in the surrounding area. He holds that, based on the figures presented in the applicant's Retail Impact Assessment, the proposed development will meet nearly all of the retail convenience development in the catchment area until after 2018 and describes this as an 'unsuitable scenario'. The appellant states that this represents an excessive retail provision on this site. He cites the Regional Planning Guidelines for the GDA (2010-2022) in opposing the development noting that the proposed retail development is not within the designated Gateway Core. He further states that the retail proposal fails to deliver on the key objectives of the CDP 2011-2017 and the associated Retail Strategy for the GDA. He refers to the proximity of the Omni shopping centre to the application site, he maintains that there is an abundance of discount retail use in the area. He further states that the number of car parking spaces to be provided on site would suggest that the development would be primarily car based. He specifically cites objective RD19 of the CDP 2011-2017 relating to the maintenance and strengthening of district and neighbourhood centres and goes on to state that new development should be cognisant of the established district centres, such as the Omni Centre which is a designated district centre, and the capacity for new development. He states that the current proposal does not deliver on the recommended sequential approach.

- 7.2. The appellant refers to, *inter alia*, the Regional Planning Guidelines for the GDA (2010-2022), the Retail Planning Guidelines (2012) and the Retail Strategy for the Greater Dublin Area 2008-2016 in the grounds of appeal in reference to the retailing proposal. The Board should note that all of these guidelines and strategies pre-date the recently adopted Dublin City Development Plan 2016-2022. That statutory document has had regard to those documents at the time of the preparation and adoption of the new CDP. The new CDP also incorporates a Retail Strategy at Appendix 3. In relation to 'Neighbourhood Centres', which applies to the application site, it states:

"Neighbourhood Centres – Level 4: The primary purpose of a neighbourhood centre is to provide for the daily shopping needs or local services within a residential community and form an important element of a sustainable

neighbourhood. Neighbourhood centres are defined by Zoning Objective Z3 on the land-use zoning maps which accompany this development plan. These centres remain vibrant but it must be cautioned that they do not remain immune from the changes wrought on retail in the last decade, such as the rise of the discount retailer or move to online retailing. This retail strategy seeks to protect existing retail services facilities in neighbourhood centres which provide for daily shopping needs and seeks to remedy deficiencies to avoid social exclusion and isolation. Accordingly, in terms of local shopping provision in neighbourhood centres, Dublin City Council will:

- Ensure that the importance of local shopping needs is taken into account when assessing proposals that would result in a loss of shops to another use
- Adopt a positive approach to the conversion and extension of shops which are designed to improve their viability.”

7.3. I cannot find that the proposed development conflicts with this above stated strategy. The application is providing for a convenience retail foodstore in a designated neighbourhood centre where currently no such retail choice exists either on this site or on contiguous Z3 zoned lands that make up the rest of this neighbourhood centre. There are complementary retail uses and services in the immediate vicinity such as a pharmacy, a tanning salon, a takeaway, a betting shop, a Polish shop and a barbers. Arguably, these Z3 zoned lands are currently missing a vital ingredient for such a neighbourhood centre, and that vital ingredient is now being proposed by the applicant. This Z3 zoned land is located adjacent a well-established residential area. Furthermore, the proposed retail foodstore falls comfortably within the ‘neighbourhood anchor store’ 1,000-2,500 sq.m. range as indicated in Table 2 of the Retail Strategy of the new CDP. That strategy also states that a ‘sequential test is appropriate where a retail development over circa 2,000 sq.m is proposed outside of a Z3 (neighbourhood), Z4 (district), Z5 (city centre), Z10 (mixed-use), or Z14 (regeneration areas)’, as the proposed foodstore is below the 2,000 sq.m. threshold and is on Z3 zoned lands, the sequential test it is not applicable in this instance. If one was to apply the sequential test, then given the unoccupied and underutilised state of the application site that is zoned Z3 and would clearly benefit from such a



proposed foodstore, it passes the sequential test. While not strictly required, the applicant did submit a Retail Impact Assessment (RIA) with the application. The catchment area is indicated on a map contained in Appendix 1 of the RIA. The RIA calculates that in the catchment area the existing convenience floorspace turnover is c. €204,000,000 (for 2015) but that the available expenditure in this catchment is c. €230,000,000 (in 2015). Thus, it is held, there is a leakage of c.€26,000,000. The applicant's RIA appears robust, in my opinion. I accept that the Omni Centre is close to the application site (c. 400 m to the south), but the foodstores there are on Z4 zoned lands (mixed services facilities) whereas the proposed foodstore of 1,165 sq.m. is on neighbourhood centre zoned lands. I have considered the policies and objectives relating to retailing in Chapter 7 of the recently adopted CDP 2016-2022 and cannot find that the proposed development conflicts with any of those policies and objectives. On the contrary, I consider that the proposed development is supported by a number of those policies, in particular, I consider policy RD19 pertinent, it states: "To promote the retail provision in the Key District Centres, District Centres and Neighbourhood Centres, including the revitalisation of existing established centres." The application site is located at the heart of a Z3 neighbourhood centre zoned area, it is an established neighbourhood centre and would benefit from revitalisation, the existing commercial structure on the site appears underutilised.

- 7.4. Having regard to the foregoing, I would not recommend refusal in relation to the quantum and type of retail floorspace being provided at this location. I cannot find that it is in conflict with national, regional or local guidance, policies or objectives in relation to retailing.

#### Design

- 7.5. The appellant considers that the proposed development is inappropriate in the existing setting, notwithstanding the changes proposed following the further information request by the p.a. The appellant states that the design of the building is inappropriate in the context of the character of the area and is incongruent for the subject location.

- 7.6. I note that under PL 29N.239685 (4191/10) for a mixed-use development on the same site, the Board issued a split decision in which the two front blocks in that proposal were refused permission for reasons relating to over-development, quality of open space provision, façade design and overshadowing. That history file is travelling with the current appeal.
- 7.7. The current application was accompanied by an ‘Architectural Design Statement & Report for Development’ as prepared by the applicant’s architects. That report refers to, *inter alia*, the creation of a new urban front with active streetscape along the Swords Road with the corner at the Schoolhouse Lane junction being emphasised by a double height glazed entrance. The architects state that the principle of providing new streetscapes to Swords Road and to Schoolhouse Lane informed the site layout
- 7.8. In the current proposal the p.a. did raise issues relating to the design. The Planner’s Report on file dated 12/02/2016 referred to the design as being “box like, monolithic form” and with an “unrelieved appearance”. The p.a. subsequently sought further information on a number of issues including on matters pertaining to design of the building. In response, the applicant proposed a number of changes to the elevations of the proposed development.
- 7.9. I would concur with the p.a. Planner’s assessment in relation to the proposal as being ‘box-like’. The site layouts, and the ground and first floor plans on file, would give an initial impression of an L-shaped building on this corner site. However, the second floor plan, and the roof plan as originally submitted (there was no roof plan submitted at FI stage), give a clearer indication of the building on the site, it is a large block-type proposal incorporating undercroft parking at ground floor level.
- 7.10. The buildings in commercial use, on Z3 zoned land, to the north and south of the site on the eastern side of the Swords Road are predominately of a two-storey ‘domestic’ scale, all with pitched roofs. The proposal does mark somewhat of a departure from that prevailing design idiom and ‘domestic’ scale. However, as the site is located in the centre of this Z3 neighbourhood zoned area, and as it is the largest such zoned site on the eastern side of the Swords Road, this site, arguably, can accommodate a new building that provides a focus for this neighbourhood centre. In that regard, a departure from the prevailing idiom and scale may be justified. None of the buildings

to the north and south are protected structures and it is not an ACA designated area. Furthermore, I would draw the Board's attention to the buildings across the Swords Road from the site. These are on lands also partly zoned as part of the neighbourhood centre. Yet they are large-scale, industrial-type buildings. One, at the junction of the Swords Road and Santry Avenue, is occupied by Heiton Buckley Building Merchants and the other larger structure to its south appears to be a warehouse and office building, both are currently accessed off the Santry Road and not the Swords Road but these sites do have significant frontage onto the Swords Road. The scale of the building proposed falls somewhere between the scale of the existing commercial buildings on the east side of the Swords Road and those much larger structures on the western side of the road. This again may act as a justification for the building of the scale and design proposed. I also note the applicant's proposals in relation to landscaping along both the Swords Road frontage and Schoolhouse Lane frontage (ref: Casey Planning & Landscape Consultancy – 'Landscape Plan – Additional Information'). The applicant's proposals were in response to the p.a. request for a treeline along Swords Road that would complement the existing treeline on the opposite side of the road. There is also an AIB building of a modern idiom, and not a wholly dissimilar scale to that proposed, on the opposite side of the Swords Road and south of the application site.

- 7.11. The proposal offers an opportunity to revitalise this neighbourhood centre that is currently underutilised. The applicant's claims that the proposal will regenerate and reinvigorate the neighbourhood centre and create a focal point for the surrounding area may not be unfounded. It also marks a more intensive and thus efficient use of service zoned urban land, the existing structures on the site are single-storey with an overall low site coverage.
- 7.12. Having regard to the foregoing, I would not recommend refusal on the grounds of the design of the proposed mixed-use development.

#### Policy and Zoning Objectives

- 7.13. The appellant states that the proposal fails to appropriately address key planning policy contained in the CDP. It is stated that the provision of a discount supermarket at this site is contrary to the maintenance of the existing district centre at the Omni Shopping Centre through the overprovision of convenience retail in the local

catchment area. It is also held by the appellant that the previous application, ref: 4190/10, PL 29N.239685, which sought to establish a residential element on the site, was far more suitable and necessary in the wider context of housing need.

- 7.14. It should be noted that a new CDP has been adopted since the p.a. made its decision and the appellant submitted his appeal.
- 7.15. As indicated under 'Over Supply of Retail Floorspace' above, I do not consider that the proposed development is in conflict with national, regional or local guidance, policies or objectives in relation to retailing. I have assessed the proposal under the recently adopted CDP. I include in the appendix attached to this report a copy of 'Chapter 7 - Retailing' of the CDP written statement for ease of reference for the Board. I have reviewed the policies and objectives as listed in that chapter and am satisfied that the proposed development is not contrary to those policies and objectives. I am of the opinion that the proposal specifically delivers upon policy RD19 that seeks 'to promote the retail provision in the Key District Centres, District Centres and Neighbourhood Centres, including the revitalisation of existing established centres'. The proposed development is located at the heart of this existing established Z3 'neighbourhood centre' that would benefit from revitalisation. I accept that the proposed development is c. 400 m to the north of the Omni Centre, but it is reasonable to assume that the elected members of the authority were well aware of this fact when they adopted the statutory plan for the area. In any event, in terms of the retail hierarchy, the land use zoning applicable to these two parcels of land is not the same, the site is zoned Z3, the Omni Centre is zoned Z4 and is significantly larger than the Z3 zoned area. I draw the Board's attention to section 14.8.3 of the new Development Plan where it states, in relation to Z3 'neighbourhood centres', the following:

"These are areas that provide local facilities such as small convenience shops, hairdressers, hardware etc. within a residential neighbourhood and range from the traditional parade of shops to neighbourhood centres. They may be anchored by a supermarket type development of between 1,000 sq.m. and 2,500 sq.m. of net retail floorspace. They can form a focal point for a neighbourhood and provide a limited range of services to the local population within 5 minutes walking distance. Neighbourhood centres provide an essential and sustainable amenity for residential areas and it is important that

they should be maintained and strengthened, where necessary.

Neighbourhood centres may include an element of housing, particularly at higher densities, and above ground floor level. When opportunities arise, accessibility should be enhanced.”

All the proposed uses in the current application are either ‘permissible uses’ or ‘open for consideration’ under the new CDP. An anchor supermarket is being provided and is within the CDP 1,000 – 2,500 sq.m. range as specified above. It will form a focal point for the residential areas to the north, east and south of the site. It will complement the existing parade of shops to its north and south.

- 7.16. In relation to the provision of a residential component, I note that the applicant sought, and was granted, permission for a residential development on lands adjoining to the east, ref: 4215/15 (see attached appendix, the decision to grant was not the subject of an appeal). That site did form part of the application site that was subject of 4191/10 (PL 29N.239685). The proposed development and the development recently granted under 4215/15 does provide for a good mix of uses at this location, in my opinion. The proposed development contributes to the consolidation of this urban area, the site in its current form is underutilised.
- 7.17. Having regard to the foregoing I am of the opinion that the proposed development is not contrary to policies and objectives contained within the recently adopted Dublin City Development Plan 2016-2022 and is not contrary to the proper planning and sustainable development of the area.

#### Traffic and Transportation

- 7.18. The appellant raises concerns about what he describes as “the largely car based nature of the proposed development”. He refers to what he regards as the high number of car parking spaces proposed in the development. He refers to access difficulties on the already heavily trafficked Swords Road. He focuses on conflicts arising with right-turning traffic in and out of the development. He holds that the proposal does not provide an appropriate design solution at this location in terms of traffic and transportation. A key point of concern for the appellant is that the proposed development delivers close to the maximum level of car parking facilities to serve the overall development. He asks the Board to satisfy itself that the development would constitute a sustainable development proposal in the context of

the transport and access requirements for neighbourhood centre zoned lands. He asks the Board to refuse permission for the proposal based on the lack of a safe and clear transport planning resolution for the site.

7.19. Section 2 of the applicant's 'Infrastructure Design Report' (by DBFL Consulting Engineers) submitted with the application refers to access and roads. It notes that the site is within the 50 kph speed limit and that sightlines at the proposed entrance comply with DMURS. A 'Road Layout' drawing (drg. No. 152107-2000) was submitted with the application indicating sightlines at the proposed entrance onto the Swords Road. The proposed works will involve the widening of Swords Road to provide right turn access to the site. This will entail relocating the existing on-street car spaces in front of the site. The application as originally submitted was also accompanied by a 'Traffic and Transport Assessment' as prepared by DBFL Consulting Engineers and Transportation Planners. It refers to, *inter alia*, the Swords Road (R132) QBC to the west of the site. It notes that Dublin Bus operate the 16, 33, 41, 41a, 41b and 41c services along the Swords Road corridor. It also maps other routes within walking distance of the site (ref: Figure 2.5 of said Assessment). It also refers to the cycle network proposals and the preferred Swords/Airport to City Centre BRT route relative to the application site. It states that relocating the existing vehicular entrance to the site further north along the street frontage will address the problems associated with opposing vehicle movements at the existing St. Johns Court Office Park which is located across the road from the existing entrance. It states that the new proposed right turn pocket into the site at the new entrance will actively minimise any potential blockage of the northbound general traffic lane. It is held in that 'Traffic and Transport Assessment' that the new three arm priority controlled junction arrangement represents a significant safety and operational performance enhancement above the existing site access layout currently at the site. The proposal also includes for a new raised refuge island within the centre of the Swords Road in a position immediately to the north of the new right turn pocket. It is held that in addition to providing a degree of protection for the right turn lane, its principle objective is to assist the observed pedestrian travel desire line (walking to/from the existing northbound bus interchange) in this general location. In relation to trip generation the Assessment concludes that during the critical PM peak hour period the proposed development has the potential to generate a comparable

level of vehicle trips (147) when compared to the existing (134) on-site facilities. The TTA also states that the PICADY results for the 2017 Opening Year scenarios reveal that the site access/Swords Road junction will continue to operate well within capacity in the post-development scenario. The TTA further concludes that the impact on the surrounding road network as a result of the implementation of the proposed development would be marginal at the proposed site access in both 2017 and the 2032 design year scenarios.

7.20. The p.a. sought further information on a number of issues. Three of the issues arising related to traffic matters. The p.a. indicated in item 2 of their FI request of the 16/02/2016 that it had concerns relating to the right turning traffic movements out of the site which would have to cross over two lanes of traffic including a QBC. It also raised concerns about unacceptable car queuing along the Swords Road at the right turning lane into the site particularly at the PM peak period. The p.a. raised concerns about the potential impact of traffic movements on the operation of the QBC. Under item 3 of the FI request it raised further concerns about the proposed geometry of the straight through lanes along the Swords Road, the proposed geometry related to accommodating the right turning lane into the site. In item 4 of the FI request the p.a. requested the applicant to contact the NTA in relation to the potential impact of the proposal on the future Swords to City Centre BRT route.

7.21. In response to the FI request an amended layout was submitted following stated consultations with, *inter alia*, the p.a. Transportation Department (ref: DBFL letter dated 13/06/2016). Citing the existing development on the site, the committed development granted under 4191/10, and other numerous similar site access arrangements located across Dublin, the arrangement of vehicles crossing over two lanes of traffic including the QBC was maintained by the applicant. I note the raised refuge island as originally indicated is omitted from the amended road layout (DBFL drg. No. 152107-2025 A). In relation to the concerns raised about unacceptable car queuing, the applicant again cites the existing site access arrangements where no right turn lane is provided. It is noted that the uses on the site could be recommissioned and the vehicular movements and trips would be very similar to that of the proposed development. It is held that the new arrangements represent a significant improvement compared to the existing site access arrangements. The applicant's agent maintains the position that the through (northbound) lane will

remain unhindered with no adverse impacts generated by cars queuing along the Swords Road. Again citing the existing access arrangement to the site, the committed development granted under 4191/10, and other numerous similar site access arrangements located across Dublin, the applicant held that the impact on the QBC would be no different to those cited situations. In response to item 3 of the p.a. FI request, the applicant's agent amended the site layout. The proposed entrance is moved some 7.5 m northwards and the two southbound lanes realigned to address the p.a. concerns. The existing, and as originally proposed, on-street car parking along the Swords Road is to be removed as per the amended scheme. In relation to item 4 of the FI request, the applicant's agent states that the NTA have now adopted the preferred corridor for the BRT and it does not go down the Swords Road in front of the site.

- 7.22. The 'Roads & Traffic Planning Division Report' on file dated 19/07/2016 assesses the applicant's FI response relating to the traffic issues raised. That report, having considered the responses, indicates that the Division now has no objections to the proposed development subject to a number of conditions. One of those conditions, which was subsequently applied by the p.a. in its decision, required 'a left in and left out only' arrangement at the entrance. I am assuming that the reference to the 'left in only' must have been an error as the applicant is proposing a 'right in' lane and this was subsequently conditioned (indicating its acceptability) by the 'Roads & Traffic Planning Division Report' and in the p.a. decision. In relation to the 'left out' only requirement onto the Swords Road, I have some reservations. Firstly, there is an established restaurant and bar use on this site with an existing large surface car park and an existing entrance off the Swords Road. The trip generation associated with that use is not wholly dissimilar to that now proposed for the site, as indicated in the submitted 'Traffic and Transport Assessment'. The existing vehicular entrance, as referred to in the applicant's 'Traffic and Transport Assessment', is experiencing problems as it is directly across the road from an entrance to an office development. Relocating it further north as proposed in this application will address those conflicts. The applicant, it would appear, could recommission the existing uses on the site and recommission the existing car park and entrance (it appears the existing commercial building on the site is not currently operating at its potential full capacity). This entrance currently has no 'right in' lane off the Swords Road, unlike that proposed.



The proposed development provides an opportunity to improve upon the existing situation from a road safety and capacity point of view. The proposed development will actually provide for a reduction of on-site car parking spaces. As per the applicant's 'Traffic and Transport Assessment', there are 91 on-site car parking spaces currently existing on the site, the current proposal is for 80 on-site car parking spaces. There are currently 5 on-street car parking spaces in front of the site, as per the FI response the proposed development will remove those spaces also. The second concern I would have in relation to a 'left out' only situation is that those wishing to travel northbound still have to turn at some location further south. There is no roundabout further south on the Swords Road in proximity to the application site. I have concerns that a 'left out' only situation at the application site will force some motorists into a 'U-turn' manoeuvre at some point further south of the site. The third consideration relates to the previously granted development for the site, ref: 4191/10 (PL 29N.239685). This extant permission was for a denser and more intensive development on the site (with some 115 car parking spaces as originally proposed), while the Board issued a split decision on that development, it did not refuse permission for part of that development for traffic reasons. That proposal did not have a 'left out' only situation and the p.a. did not condition such a requirement, nor did the Board. The fourth consideration in relation to a 'left out' only requirement is that what the applicant is proposing in 'left and right in/out' is not unusual or uncommon. Such arrangements are to be found at many locations across the city and in, indeed, along the Swords Road.

- 7.23. Notwithstanding the above, the applicant did not appeal any of the conditions and in their response to the grounds of appeal, the applicant appears satisfied to operate the entrance as conditioned by the p.a. as it is stated "*The Traffic and Transport Department have conditioned that a right in and left out (sic) and left out only be provided. Thus there will be no right hand turning movements out of the site*" (ref: para. 2 page 21 of the 'Response to the Third Party Appeal' by Downey Planning). In the circumstances, as the local Roads Authority are seeking a 'left out' only on the basis of traffic safety, and as the applicant has not appealed that requirement and indicated acceptance of the condition, the Board may wish to maintain this position. I would accept that the 'left out' only imposition does reduce the risk of accidents arising from 'right out' traffic crossing the road. There is an inconvenience placed on

the end-users of the development arising from the 'left out' only requirement, but this appears acceptable to the applicant.

- 7.24. The site is well-served with reference to the QBC along the Swords Road and bus shelters in very close proximity to the site on both northbound and southbound services. There are a number of bus routes passing in front of the site and others within walking distance. There is an established residential area within walking distance of this neighbourhood centre site. The car parking provision does not conflict with the recently adopted CDP standards. Bicycle parking is also to be provided for at the proposed development. The area has a good footpath network.
- 7.25. I do not consider that the proposed development poses an unacceptable risk to traffic safety and convenience. On the contrary, the proposed entrance offers an opportunity to improve upon the existing entrance arrangement, both from a traffic safety point of view and avoidance of obstruction of other road users. The provision of a 'right lane' in, where no such facility currently exists, will maintain northbound through-traffic thereby protecting the carrying capacity of this regional route. On-site car parking is being reduced from its current level and the on-street car parking spaces are to be removed to further improve the junction arrangement of this site with the Swords Road. On balance, there is a planning gain from a road safety and capacity consideration, in my opinion. I therefore would not recommend a refusal on the grounds of traffic or transportation matters.

#### Flood Risk

- 7.26. The application was accompanied by a 'Site Specific Flood Risk Assessment' as prepared by DBFL Consulting Engineers. That assessment report states that from consultation of the various information sources, there does not appear to be any existing identified fluvial, tidal or groundwater flood risks to the site or local area and it is further stated that the OPW have no recorded flood incidents in this area or within the application site. However, that report does note that the existing public surface water sewers and culverts in the vicinity of the site are a potential pluvial flood risk depending on storm conditions. It states that the existing culvert along the southern and eastern boundaries is along the route of an historic drainage ditch which was also noted on historic maps of the area. The report cites discussions with DCC indicating that the Swords Road at Swiss Cottage has flooded previously, most

recently in July 2013 which was related to a storm event i.e. pluvial flooding of the public network. The report states that it is believed that this pluvial flooding is related to existing surface water drainage capacity in the area although it is normally confined to the road and footpaths and does not extend into the site. The report goes on under section 5.0 to outline a number of flood risk management proposals, including diverting an existing culvert onto Schoolhouse Lane and increasing the sizes of culverts/sewers thereby providing additional capacity. The proposed development itself will be designed to provide an attenuated system with stormwater storage within the site, the existing development on the site discharges unattenuated to the public sewer. It is stated that the proposed development will not increase flood risk elsewhere.

- 7.27. There is a report on file from DCC's Engineering Department – Drainage Division (dated 15/012016). That report indicates no objection to the proposal subject to conditions. One of the conditions relates to the protection of an existing public sewer on the site.
- 7.28. In the event that the Board grants permission for the development I would recommend that the applicant be conditioned to implement the mitigation measures proposed in the 'Site Specific Flood Risk Assessment Report' and that all drainage proposals for the development are to the satisfaction of the planning authority for such works.

#### Appropriate Assessment

- 7.29. The application was accompanied by a 'Natura 2000 Impact Screening Report' as prepared by Downey Planning. It is stated that the development has been formulated to ensure that it shall not give rise to significant adverse impacts on the integrity of any Natura 2000 sites. The screening report concludes that as the proposed project will have no direct or measurable indirect impacts on any Natura 2000 site, no significant impacts on the qualifying interests of SPA and SAC are likely.
- 7.30. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, I consider that no appropriate assessment issues arise.

## 8.0 Recommendation

I recommend that the Board uphold the p.a. decision and grant permission for the proposed development subject to the conditions as indicated below.

## 9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity of the application site, the existing commercial use on the site, the planning history pertaining to the lands, and also having regard to the Z3 zoning objective for the area as set out in the Dublin City Development Plan 2016-2022 it is considered that, subject to compliance with the conditions set out below, the proposed development would not unduly impact on the vitality and viability of existing neighbourhood or district centres in the wider area, would not seriously injure the amenities of the area or of property in the vicinity, would not give rise to an unacceptable risk of flooding in the area, would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 submitted on the 4<sup>th</sup> day of July 2017, 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 layout of the vehicular entrance to the application site off the Swords Road, the car park layout, and all alterations proposed to the Swords Road adjacent the application site shall be to the written satisfaction of the planning

authority. Detailed design proposals for these works shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development and shall include, *inter alia*, the following: exact details of the right-turning lane to the site off the Swords Road; realignment proposals for all lanes on the Swords Road; realignment proposals for public footpaths; signage proposals; car park layout; turning bays; junction layouts, and kerbs.

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

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

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

4. Details of the materials, colours and textures of all the external finishes to the building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

5. All planting / landscaping required to comply with the specification of the landscaping scheme submitted to the planning authority shall be maintained, and if any tree or plant dies or is otherwise lost within a period of 5 years, it shall be replaced by a plant of the same species, variety and size within the planting season following such loss.

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

6. Delivery times to all proposed commercial/retail/takeaway/restaurant/café/foodstore units shall be submitted

to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** To protect the residential amenities of adjacent properties.

7. 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.

8. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The flood risk management proposals and the mitigation measures specified in the 'Site Specific Flood Risk Assessment Report – November 2015' as prepared by DBFL Consulting Engineers and received by the planning authority on the 11<sup>th</sup> day of December 2015 shall be implemented in full to the written satisfaction of the planning authority. Detailed design proposals for the proposed works shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of public health and to mitigate flood risk.

9. No advertisement or advertisement structure other than those shown on the drawings submitted with the application shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

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

10. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

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

11. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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Tom Rabbette  
Senior Planning Inspector

13<sup>th</sup> December 2016