



An  
Bord  
Pleanála

## Inspector's Report PL06F.249191

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<b>Development</b>	52 Houses, ESB substation, site works
<b>Location</b>	Dunsoghly , Rathoath Road, Finglas, Dublin 11
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	FW17A/0066
<b>Applicant(s)</b>	Greenwich Projects Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Permission with conditions
<b>Type of Appeal</b>	Vs Conditions 3 and 5
<b>Appellant(s)</b>	Greenwich Projects Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> January 2018
<b>Inspector</b>	Hugh Mannion

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## 1.0 Site Location and Description

- 1.1. The site has a stated area of 1.4ha and is located about 3kms west of Finglas village but within the M50 in north County Dublin. The site is currently in rough pasture and self-seeded shrubs and appears to have been subject to some disposal of builders' waste. The site is rectangular. On its north western and north-eastern boundary is the lands of Cappagh national orthopaedic hospital. On the southern section of the north-eastern boundary is the New Cross secondary school. In the extreme north western boundary the site shares a section of boundary with the former Dunsink landfill site. The remainder of its southwestern boundary is along an open space/amenity area which is overlooked by the houses in Dunsoghly Green and is accessible from the roadway/footpaths on the north-western end of Dunsoghly Drive. This open space is about a hectare and provides a small all-weather type football pitch in the middle and grassed open areas at both ends. This open space is separated from the former Dunsink landfill lands by a stout post and wire fence and separated from the roadway within Dunsoghly Drive by low a fence (less than 1m) fitted with an access gate. Beyond this public open space to the west and south west is the lands of the Dunsink landfill which is being managed by Fingal County Council under EPA licence and is proposed to become a regional park. There is a further area green within the Dunsoghly development along its boundary with Rathoth Road.
- 1.2. Access to the site is through the Dunsoghly housing development which comprises a mix of detached and terraces of four two storey houses with front and rear gardens with a single front garden space parking. Access to the application site is from Rathoth Road along Dunsoghly Avenue.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the erection of 52 houses, ESB substation and associated works at Dunsoghly, Rathoath Road, Finglas, Dublin 11

## 3.0 Planning Authority Decision

### 3.1. Decision

3.2. The planning authority granted permission subject to 25 conditions. The appealed conditions are:

3.3. **2.** This permission allows a maximum of 44 dwelling units.

Reason: In the interest of clarity.

3.4. **3.** Prior to commencement of development on the site the applicant shall submit revised layout plans, floor plans and elevations for the written approval of the planning authority for the proposed development which shall show,

- a) The omission or significant reduction in the area of the proposed 'home zone' in lieu of the provision of a pocket park and adequate turning for emergency and refuse vehicles.
- b) The alignment of all the proposed units within the row constituted by unit numbers 10 to 19 to be achieved by the movement in a north-westerly direction of unit numbers 13 to 16, together with the movement forwards, i.e., in a north-westerly direction of the row constituted by unit numbers 10 to 19 to address the road along which unit numbers 10 to 19 are aligned. This subject road runs in a south westerly-north easterly direction.
- c) The omission of unit numbers 30 to 32 and their replacement by a pocket park containing recreational facilities for children. Full details of this park, including landscaping, shall be provided to the planning authority for written approval.
- d) The replacement of unit numbers 29 and 33 with type C houses and CV1 house respectively to ensure overlooking of adjoining open space and to provide a suitable end to the rows of houses.
- e) The provision of a turning area at the northern end of the road which serves numbers 10 to 19 or other such arrangement sufficient to allow for the turning of emergency and refuse vehicles.

- f) The provision of rear garden space to unit number 18 which does not cut over the rear open space of unit number 19 and conforms with the Fingal Development Plan 2017 to 2023 requirements with respect to size and depth.
- g) The removal of any block wall between the front garden of proposed unit number 1 and the existing unit 44 Dunsoghly Avenue and its replacement by a hedge of similar landscape treatment.

**Reason:** In the interest of residential and visual amenity and the proper planning and sustainable development of the area.

- 4. Prior to commencement of development on site the applicant shall submit to the planning authority for their written approval a revised comprehensive landscape plan for the proposed development with planting schedules which shall be carried out and completed within the first planting season following commencement of development and shall be permanently retained thereafter. Planting shall be positioned to avoid pipework on site. Details of the layout of planting are to be agreed in writing with the planning authority prior to the commencement of development on site, which shall include details of;
  - a) The interaction between the proposed landscaping including tree planting within the proposed swale area and the foul and storm drainage layout (and) the proposed maintenance of the swale area.
  - b) Full details of the integration of the proposed ESB substation into the north-western corner of the site with clear delineation between the proposed ESB substation and the adjoining open space, such as a hard surface surrounding the building, and without any awkward to maintain strips of grass or hiding/dumping areas adjoining the subject building.
  - c) The provision of suitable children's play features within the pocket park.
  - d) A street tree planting schedule showing proposed underground services and lamp standards. Proposed street trees should be in constructed tree pits. Services should be a minimum of 2.5m from street trees. Street trees should be planted within seven metres of lamp standards and accord with the planning authority's Tree Strategy.

- e) Lamp standards shall be located only on the footpaths of the subject estate and not on open space areas.
- f) Location of proposed services and construction pit details (with a minimum rooting volume of 16 cubic metres).
- g) Details of the proposed sustainable maintenance of incidental grass strips.

**Reason:** In the interest of residential and visual amenity and the proper planning and sustainable development of the area.

5. Prior to commencement of development the applicant shall submit for the written approval of the planning authority the following;

- a) Details of all external finishes and fittings, materials and colours to be used on the houses.
- b) Details of all surface finishes to be used throughout the development.
- c) Details of all boundary treatments, to include drawings and specifications, including boundary fence details to the former Dunsink landfill site.

**Reason:** In the interest of residential and visual amenity and the proper planning and sustainable development of the area.

(23) That a financial contribution in the sum of €191,928 to be paid to the Fingal County Council in lieu of open space provision towards the cost of amenity works in the area of the proposed development in accordance with the requirements of the Fingal Development Plan based on a shortfall in Public Open Space of 3,270sqm within the proposed development.

**Reason:** To achieve the Public Open Space Objectives of the Development Plan and in the interest of the proper planning and development of the area.

### 3.5. Planning Authority Reports

### 3.6. Planning Reports

Initially the applicant was requested to provide further information as follows;

- Omit units 10,11, 12, 33, 42 and the ESB substation,
- Demonstrate that the houses meet the standards set out in objective DMS24 in relation to room size.
- Submit a revised layout to accord with DMS29 in relation to separation distances to boundaries and between end of terrace walls.
- adequacy of surface water attenuation,
- drainage for the ESB substation,
- limits on the discharge rate for surface water,
- no surface water to discharge to foul sewer,
- surface water drainage to comply with Greater Dublin Area COP for Drainage Works.
- Submit details of compliance with the foul drainage standards of Irish Water.
- Submit details of compliance with objectives DMS57, DMS57A, DMS57 B of the development plan in relation to the provision of public open space.
- Demonstrate that unit 1 has adequate parking/open space.
- The applicant should submit landscaping/tree details and interaction with underground services.
- Details of refuse truck access, traffic calming, connection to existing development in Dunsoghly Close at house number 1, pedestrian access.
- Submit a risk assessment on the impact of the Dunsink landfill site on the proposed houses.

Subsequent to the submission of the further information the planning authority granted permission.

## 4.0 Other Technical Reports:

- 4.1. **Irish Water** recommended further information in relation to adequacy of surface water attenuation, drainage for the ESB substation, limits on the discharge rate for surface water, no surface water to discharge to foul sewer, surface water drainage to comply with Greater Dublin Area COP for Drainage Works.
- 4.2. The second **Irish Water** report (dated 29<sup>th</sup> July 2017) reported no objection subject to conditions.
- 4.3. The planning authority's **Water Services** section requested the same information Irish Water. A second report reported no objection subject to conditions.
- 4.4. **Environment and Water Services Department** requested a risk assessment report in relation to the environment and human health arising from the possibility of migrating gases from the former Dunsink landfill site. A second report dated 4<sup>th</sup> August 2017 (see point 14 of this second report) reported no objection subject to compliance and in particular to the measures set out in the 'Landfill Gas Assessment' report received by the planning authority on 21<sup>st</sup> July 2017.
- 4.5. **Transport Planning** sought additional information in relation to accessibility of the parking areas, ensure that two spaces are available to all houses, details of the transition space between existing and proposed housing development, evidence that refuse lorries can be accommodated, details of traffic calming measures, connectivity/access to existing open space, details of areas proposed for taking in charge, submit a construction management plan. The second report dated 16<sup>th</sup> and 18<sup>th</sup> August 2017) reported no objections subject to minor amendments.

## 5.0 Planning History

The planning reports on file list a significant number of applications in the vicinity of this site. Many were refused when the land was zoned 'H – Green Belt'. The site is zoned for residential development.

There is another current appeal case **PL06F.249346** before the Board which is also accessed through Dunsoghly.



## 6.0 Policy Context

### 6.1. Development Plan

The Fingal County Development Plan 2017 to 2023 is the relevant county development plan for the area.

**Objective DMS24** requires that houses meet the floor areas, room size and storage areas set out in Table 12.1. That apartments meet the standards set out in Table 12.2, and that houses and apartments meet the standards set out in Table 12.3.

**Objective DMS29** requires that a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units.

**Objective DMS57** requires a minimum public open space provision of 2.5 hectares per 1000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.

**Objective DMS57A** requires a minimum 10% of a proposed development site area be designated for use as public open space. The Council has the discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities outside the development site area, subject to the open space or facilities meeting the open space 'accessibility from homes' standards for each public open space type specified in Table 12.5.

The Council has the discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of Regional Parks in exceptional circumstances where the provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/ amenity facilities is not achievable. This is subject to the Regional Park meeting the open space 'accessibility from homes' standard specified in Table 12.5.

**Objective DMS57B** requires Require a minimum 10% of a proposed development site area be designated for use as public open space.

The Council has the discretion to accept a financial contribution in lieu of remaining open space requirement required under Table 12.5, such contribution being held solely for the purpose of the acquisition or upgrading of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities subject to the open space or facilities meeting the open space 'accessibility from homes' standards for each public open space type specified in Table12.5.

The Council has the discretion to accept a financial contribution in lieu of the remaining open space requirement to allow provision or upgrade of Regional Parks in exceptional circumstances where the provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities is not achievable, subject to the Regional Park meeting the open space 'accessibility from homes' standard specified in Table 12.5.

Where the Council accepts financial contributions in lieu of open space, the contribution shall be calculated on the basis of 25% Class 2 and 75% Class 1 in addition to the development costs of the open space.

## 6.2. **Natural Heritage Designations**

See AA screening section below.

## 7.0 **The Appeal**

### 7.1. **Grounds of Appeal**

- Condition 2 reduces the number of units from the proposed 52 to 44. This condition should be removed. The result of condition 2 is that the density is reduced to 30.7 units per ha. The site is zoned for residential development and fully serviced. The density envisaged by the planning authority contravenes the Sustainable Urban Housing Guidelines.
- The home zone is 871m<sup>2</sup> which is larger than the pocket park required by condition 3.

- The proposed pocket park reduces the residential density and will injure the amenity of future residents of the area.
- The application demonstrates that the road serving house numbers 10-19 referred to in condition 3(e) can accommodate emergency/refuse traffic.
- Condition 3(f) deals with open space for houses 18 and 19. The amended drawings (site layout drawing number PP101 and drawing number PP207) submitted with the appeal provide for a detached number 19 with 55m<sup>2</sup> of private open space.
- Condition 3(g) conflicts with condition 6(g). The applicant does not have sufficient legal interest to determine the boundary wall along proposed house number 1 and existing house number 44 Dunsoghly Avenue.
- The applicant will comply with condition 4 in the submission of a landscape plan.
- Condition 5(i) should omit reference to fittings.
- The details required by condition 5(ii), surface finishes, and 5(iii), boundary treatments, have already been agreed previously.
- A construction management plan has been previously submitted and therefore condition 6(h) should be removed.
- Condition 23 seeks a contribution towards public open space. The planning authority has miscalculated the open space figure and the conditions should be removed.

## 7.2. Planning Authority Response

- The overall layout was acceptable subject to the amendments by way of the conditions imposed.
- There is an oversight in the condition 3(g) and condition 6(g). To address this the height of the boundary between existing house 44 Dunsoghly Court and proposed unit number 1 may be agreed.
- The proposed development is deficient in public open space. Condition 3(a) and (b) addresses this deficiency.

- The planning authority's development contribution scheme makes provision for a contribution for public open space. The correct figure payable for the shortfall in public open space for the reduced 41 dwellings is €200,845.

### 7.3. **Observations**

- There are no observations.

### 7.4. **Further Responses**

The applicant commented on the planning authority's submission as follows;

- There is an abundance of unused public open space adjacent to the application site.
- There is a conflict between conditions 3(g) and 6(g).
- The revisions made at appeal stage provide adequate open space for number 18 and 19.
- Open space provision is adequate and a contribution towards a deficit in public open space is not warranted.

## 8.0 **Assessment**

### 8.1. **Development Plan Policy**

8.2. The site is zoned for residential development (RA) in the Fingal County Development Plan 2017 to 2023 with the objective "provide for new residential communities subject to the provision of the necessary social and physical infrastructure". I conclude therefore that the proposed development is acceptable in principle.

8.3. The adjoining development in Dunsoghly, through which the proposed development will be accessed, is residential in character and the proposed development will compliment this existing pattern of development. The application constitutes backland in relation to the Dunsoghly development, access will be through the Dunsoghly development both for the short term construction works and the longer-term occupied phase of the proposed development. Notwithstanding that some initial disturbance will arise given the necessity to access the site during the

construction phase I conclude that the proposed development will not seriously injure the amenity of the existing residential property in Dunsoghly nor the amenity of adjoining developed lands at the Cappagh Orthopaedic Hospital or New Cross secondary school.

8.4. The planning authority raised the matter of compliance with Development Plan standards for room sizes by way of additional information. The applicant satisfied the planning authority on this point and I conclude that the mix of dwelling types, sizes and private open space proposed are acceptable in terms of the residential amenity of future residents.

**8.5. Traffic Safety**

8.6. The proposed development will access the Ratoath Road through Dunsoghly. The 50kph speed limit applies on Ratoath Road at the access point from Dunsoghly. Within Dunsoghly there are footpaths on both sides of the road and I consider that the road network within Dunsoghly is adequate to accommodate traffic arising from the proposed development. It may be noted that the planning authority's Transport Planning Section had no objection to the proposed development on traffic safety grounds. I conclude that the proposed development will not endanger public safety by reason of traffic hazard.

**8.7. Public Health.**

8.8. Public water supply and sewerage are available to serve the proposed development.

8.9. The site is located close to the former Dunsink landfill site. This site is owned by the planning authority and managed since 2004 under licence from the EPA. Gases are collected and used to generate electricity which feeds into the national grid. The application site shares a short boundary (about 35m) with the Dunsink landfill site which includes a stream (Cappagh Stream) which turns southwest after about 100m and joins the Scribblestown stream which flows within the Dunsink landfill site. The planning authority at point 12 of the request for additional information asked for a report on risks to the environment or human health arising from this proximity of the application site to the former landfill site. The applicant submitted a 'Landfill Gas Assessment' report on 21<sup>st</sup> July 2017. This report was based on boreholes along the north-eastern boundary of the landfill site (that is the north-western boundary of the application site) which identified zero levels of methane and hydrogen sulphide but

elevated level of carbon dioxide. Notwithstanding these findings the report recommended the installation of concrete floor slab with gas resistant membrane and a passively ventilated under floor subspace of the proposed houses.

8.10. The planning authority's Environment and Water Services Department reviewed this submission and recommended a grant of permission subject to compliance, *inter alia*, with the recommendations of the 'Landfill Gas Assessment'. I conclude therefore that compliance with condition number 1 of the draft order set out below will ensure that the proposed development is carried out in accordance with the further information submitted and will not be prejudicial to public health by reason of air pollution.

**8.11. Condition 2 and Open Space.**

8.12. The application site is part of a relatively small area zoned for residential development in this part of Fingal. To the northwest the site is bounded by an area zoned for community infrastructure where permitted development includes civic facilities, religious, community, educational healthcare and social uses. This area is occupied by the Cappagh national orthopaedic hospital and in its more southern section the New Cross secondary school. Adjoining the site on its southwestern boundary is an open space/amenity area which is overlooked by the houses in Dunsoghly Green and is accessible from the roadway/footpaths on the north-western end of Dunsoghly Drive. This open space is about a hectare and provides a small all-weather type football pitch in the middle and grassed open areas at both ends. This open space is separated from the former Dunsink landfill lands by a stout post and wire fence and separated from the roadway within the Dunsoghly Drive by low a fence (less than 1m) fitted with an access gate. Immediately to the west and south west is the lands of the Dunsink landfill which is being managed under EPA licence and is proposed to become a regional park. There is a further area green area along the boundary of the existing Dunsoghly development facing out onto Rathoth Road.

8.13. The planning authority raised the issue of deficiency in public open space provision in the request for further information at point 8. The applicant submitted an amended site layout (contrast amended drawing PP101 submitted 24<sup>th</sup> April 2017 with the originally submitted drawing PP101 Revision A submitted on the 21<sup>st</sup> July 2017)

which reduced the proposed number of houses from 52 to 47 and introduced an open space/home zone into the proposed development. Among the consequences of these revisions is the reduction in density from 37/ha to 33.6/ha.

- 8.14. The planning authority's decision includes condition 2 which permits 44 units only and thereby further reduces the permitted density to 31/ha.
- 8.15. The Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (May 2009) makes the point that minimum net residential densities on sites within 500m walking distance of a bus stop and 1km with of a rail station should be 50 units. Dublin Bus routes 40, 40d and 17 serve the area. It is an objective (PM41) of the County Development Plan to encourage increased residential densities at appropriate locations while ensuring that the amenity of existing and future residents is not compromised. The permitted density is 31 units per ha which is significantly below the minimum advised by national and local policy. The applicant's appeal makes the point that omitting additional houses will unacceptably reduce the density.
- 8.16. The second consideration is the availability of public open space to serve the amenity needs of future residents. The one-hectare parcel of public open space accessible from Dunsoghly Drive is overlooked from the houses in Dunsoghly Green and the proposed development continues Dunsoghly Drive and orientates the proposed houses to overlook this open space area also. Having regard to the relatively small area of residentially zoned but undeveloped land (about 1 hectare, this area is identified as site number 1 on page 3 of the Engineering Services report submitted on the 24<sup>th</sup> April 2017 with the application and subject to appeal number PL06F.249346) in the vicinity of the Dunsoghly development, the relatively modest scale this currently proposed extension to the Dunsoghly development, to the existing two parcels of public open space within the Dunsoghly development, the home zone proposed in the current application and having regard to very extensive area of the Dunsink regional park which will be available in the future I conclude that it is not appropriate to reduce the density in the current application or further amend the layout over and above what is proposed in drawing PP101 Revision A submitted as further information on the 21<sup>st</sup> July 2017.

### 8.17. **Condition 23 and the deficit in Open Space**

- 8.18. A related matter to the provision of public open space is condition 23. This condition requires the payment of a contribution calculated by the planning authority at €191,928 towards a shortfall in public open space. The planning authority and the applicant disagree on the amount of the shortfall in the provision of public open space and therefore on the basis of the calculation of the amount payable under condition 23.
- 8.19. Objective PMN25 requires public open space be provided at a rate of 2.5ha per 1000 population. The planning authority sets out calculations for the shortfall and consequently the amount payable in its submission received by the Board on the 25<sup>th</sup> October 2017.
- 8.20. Condition number 23 is in addition to condition 25 which is imposed under the adopted general development contribution scheme. The adopted Fingal Development Contribution Scheme (copy attached) already includes as part of its overall calculation of the projected costs of the provision of public infrastructure a figure of €17.51 per m<sup>2</sup> of residential development for “Community Parks and Facilities” and this figure is included in condition 25 of the decision to grant permission and has not been appealed by the applicant. Additionally, the Development Contributions Guidelines for Planning Authorities (DoECLG 2013) makes the point that “development contributions provide the only statutory mechanism for capturing planning gain as part of the development management process. There are three types of development contribution scheme...” and the Guidelines go on to detail (1) general development contributions schemes, (2) special development contributions and (3) supplementary development contribution schemes. Where works are specifically required to accommodate a specific development which are not covered by the adopted general development contribution scheme the only mechanism open to the planning authority within the statutory framework is to apply a special contribution under section 48(2) (c). Such a condition would require identifying specific significant exceptional costs not covered by the general scheme and these specific works should be specified in the condition.
- 8.21. I note the planning authority’s submission received by the Board on the 25<sup>th</sup> October 2017 and the calculations set out therein. The submission makes the case that



condition 23 is imposed under the Fingal Development Contribution Scheme. However, condition 25 is also imposed under the scheme and there is, therefore, an element of double accounting in the planning authority's decision even if there is a deficiency in public open space. Having regard to the foregoing I recommend removing condition 23.

**8.22. Condition 3(e) – refuse/emergency vehicle turning.**

8.23. The applicant appeals condition 3(e) which raises the issue of the adequacy of the roadway along proposed houses 10 to 19 (see site layout drawing PP101 Revision A submitted on the 21<sup>st</sup> July 2017) to accommodate emergency vehicles. The planning authority raised this issue at point 11(d) of the request for further information. The applicant included a swept path analysis in the submission of further information (see NBR Consulting Engineers drawings NBR- ATR-002 in the body of this file, not the pouch). The planning authority's Transport Planning division reported on the FI (see report dated 16<sup>th</sup> and 18<sup>th</sup> August 2017) that while the dimensions of the vehicles used for the assessment were not clear it had no objection to the revised proposed development and that only some minor alterations were needed. I attach a condition in the draft order below which requires that the internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

**8.24. Condition 3 (f) private open space for House numbers 18 and 19.**

8.25. The planning authority was concerned by the indentation of the rear garden of number 18 into the garden of number 19 as provided for in the layout submitted as further information (see site layout drawing PP101 Revision A submitted on the 21<sup>st</sup> July 2017). In condition 3 (f) the planning authority required by way of compliance that the relationship of houses 18 and 19 be revised to ensure that the rear boundary is altered and that adequate private open space is provided. The applicant in the appeal includes a revised site layout and revised house type E (site layout drawing PP101 Revision A submitted to the Board on the 6<sup>th</sup> September 2017 and proposed house type E Drawing number PP207 Revision B) which provides for a revised rear garden accomplished by providing a detached house number 19. The house moves marginally closer towards the site boundary with New Cross secondary school. The

first floor windows are opaque which is sufficient to protect the amenity of the adjoining school. Therefore, compliance with condition 1 of the draft order below will address this point.

**8.26. Condition 3(g) and condition 6(h) Front Wall at 44 Dunsoghly Avenue.**

8.27. The appeal makes the point that there is a contradiction between the requirement for a hedge between the front gardens of existing house 44 Dunsoghly Avenue and proposed house number 1 set out in condition 3(g) and the requirement for a boundary wall not exceeding 900mm set out in condition 6(h). The point is made by the applicant that he is not the owner of the existing wall at 44 Dunsoghly Avenue and the planning authority accepts that there is a contradiction between these conditions. In any case this wall stops at the inner edge of the public footpaths so it cannot obstruct pedestrian or vehicular traffic as appears to be the planning authority's concern.

8.28. I conclude that conditions 3(g) and condition 6(h) should be omitted from the Board's decision as set out in the draft order below.

**8.29. Condition 4 Landscape Plan**

8.30. The appeal makes the point that the applicant has already submitted a comprehensive landscape plan. Notwithstanding the details submitted at application stage I recommend attaching a condition requiring the provision of detail in relation to landscaping of the site to allow the planning authority to review the details of this aspect of the proposed development on an ongoing basis.

**8.31. Condition 5(i) External Fittings to be Agreed**

8.32. Condition 5(i) requires the applicant to agree the external fittings of the proposed houses prior to commencement of development. I concur with the applicant that this is an inappropriate level of detail for the present application and I recommend omitting reference to fittings as set out in the draft order below.

**8.33. Condition 5(ii) and 5(iii) Surface Finishes and Boundary Treatments.**

8.34. Condition 5(ii) requires details of all surface finishes. The applicant makes the case that these are set out in the landscape Master Plan submitted with further information on the 21<sup>st</sup> July 2017. I have reviewed the further information; in particular drawing number 01 Landscape Master Plan and drawing number 03

Landscape Details (Ronan MacDiarmada & Associates) and I agree with the applicant that sufficient detail is provided in the application and I conclude that compliance with condition 1 in the draft order below will address the issue of surface finishes.

8.35. The appeal makes the case in relation to condition 5(iii) that detail of boundary treatments is set out in the application. I agree that the boundary treatments are set out in drawing number 02 Boundary Masterplan (Ronan MacDiarmada & Associates) submitted as further information on the 21<sup>st</sup> July 2017.

8.36. **Condition 6(h) – Construction Management Plan.**

8.37. The applicant makes the point that a construction management plan has been submitted. I agree with this point; however, I recommend that given the necessity to access the application site over an existing and constructed residential development it is appropriate that the planning authority should have capacity to oversee details of the potential impacts on residential amenity for the duration of the construction phase of the proposed development.

8.38. **Appropriate Assessment Screening**

8.39. The application includes an AA screening report. The site is not within any Natura 2000 site. The South Dublin Bay and River Tolka Estuary SPA (004024) is 8kms downstream from the site, the North Dublin Bay SAC 000206 is 11kms downstream, the North Bull Island SPA 004006 is 11kms downstream and the South Dublin Bay SAC 000210 is 12kms downstream. The screening report sets out the conservation objectives and qualifying interests of the Natura sites identified as potentially at risk. The screening report recognises that there are potential construction phase water quality impacts arising from streams close to the site which enter the Tolka river about 1km south of the site. The screening report concludes that normal site engineering standards will sufficiently militate against any potential run off. In the operational phase of the development surface water will discharge to the local authority surface water sewer and foul water will discharge to the foul sewer. Along with direct effects, in combination effects and indirect effects are considered. The report concludes that there are no potential effects on the identified sites.

8.40. Having regard to the information submitted with the application and the appeal which I consider adequate in order to issue a screening determination it is reasonable to conclude that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on South Dublin Bay and River Tolka Estuary SPA (004024), North Dublin Bay SAC 000206, the North Bull Island SPA 004006 or South Dublin Bay SAC 000210 or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 9.0 Recommendation

9.1. Having regard to the foregoing I recommend a grant of permission subject to the conditions set out below.

## 10.0 Reasons and Considerations

Having regard to;

- a) the zoning of the site for the provision of new residential communities subject to the provision of the necessary social and physical infrastructure development in the Fingal County Development Plan 2017 to 2023,
- b) to the pattern of development in the area, including residential development,
- c) to the proximity of the site to public transport infrastructure, and,
- d) subject to compliance with the conditions set out below

it is considered that the proposed development would accord with the provisions of the current Fingal County Development Plan, would not endanger public safety by reason of traffic hazard, would not injure the residential or visual amenity of property in the vicinity and would, therefore, accord with the proper planning and sustainable development of the area.

## 11.0 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 21<sup>st</sup> day of July 2017 and by the further plans and particulars received by An Bord Pleanála on the 6<sup>th</sup> day of September 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 interests of clarity.

2. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

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

3. 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.

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

4. All rear gardens shall be bounded with 1.8 metre high concrete block walls, suitably capped and rendered, on both sides, or by 1.8 metre high timber fences with concrete posts.

**Reason:** In the interests of residential and visual amenity.

5. No walls, fences or other boundary treatment shall be constructed around

the front gardens of the proposed dwellings, and front gardens shall be kept as “open plan”.

**Reason:** To ensure that the proposed scheme remains open plan in nature/appearance, in the interest of visual amenity.

6. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

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

7. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

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

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

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

10. Public lighting shall be provided in accordance with a scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

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

11. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

12. 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.

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

13. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or

other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

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

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

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Hugh Mannion  
Senior Planning Inspector

15<sup>th</sup> January 2018