



An
Bord
Pleanála

Inspector's Report PL06F.249267

Development	Alternations to previously granted permission (Reg. Ref: F07A/0249 / PL06F.231457) to provide for 233 no. residential units & public space.
Location	Flemingtown, Clonard or Folkstown Great and Clogheder townlands, Balbriggan, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F17A/0372
Applicant(s)	Crescent Park Properties Ltd.
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third parties
Appellant(s)	1. Balbriggan Community Council 2. James Halligan
Observer(s)	None
Date of Site Inspection	7 th December 2017
Inspector	Donal Donnelly

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1.0 Site Location and Description

- 1.1. The appeal site is located in the townlands of Flemingtown, Clonard or Folkstown Great and Clogheder to the west of Balbriggan in northern Co. Dublin.
- 1.2. Balbriggan has expanded significantly over the past 15 years to the north-west of the town on lands between Flemington Lane and the Naul Road. The population recorded for the Balbriggan Urban and Rural Electoral Divisions was 11,132 in 2002 and by the 2011 Census, this had increased by 104% to 22,695. Much of this growth can be attributed to the development of these lands.
- 1.3. The appeal site is located to the west of the Balbriggan expansion area and to the east of Clonard Road. The site is an irregular shape to reflect the boundary of a previous planning permission [Reg. Ref: F07A/1249 (PL06F.231457)]. A public park is proposed in a section of the site to the north-west and subsequent planning permissions have been granted on the eastern part of the lands. This planning application relates to the development of the Ladywell Avenue sector of the site to the south.
- 1.4. At present most of the lands, including those intended for development, are in arable agricultural use. Site levels rise to the north-west to the location of a recently constructed reservoir. To the east of the development area are primary and secondary schools. A 'boulevard road' has been developed to the location of Colaiste Ghlor na Mara secondary school. Construction works were taking place on lands to the north of the schools at the time of the site visit.

2.0 Proposed Development

- 2.1. Planning permission is sought for alterations to Reg. Ref: F07A/0249 (PL06F.231457) to provide for 233 no. residential units, a crèche; 398 no. car parking spaces; and 144 no. bicycle spaces. Works also include construction of the partially completed boulevard road running from the intersection with the proposed C-Ring Road south to Naul Road.
- 2.2. The proposed development consists of the omission of sections of the previously approved Reg. Ref: F07A/0249 (PL06F.231457) that have been superseded by Reg. Refs: F13A/0240 and F15A/0437, F15A/0550 and F15A/0242. This results in an

altered permission comprising only Phase 1 open space to the north-west (as amended by Reg. Ref. F15A/0550), the Boulevard Road and Ladywell Avenue sector of development located in the southwest corner of the overall site.

2.3. The breakdown of residential development comprises 89 no. houses consisting of the following:

- 11 no. two-bedroom two-storey houses;
- 19 no. three-bedroom two-storey houses;
- 14 no. three-bedroom three storey houses;
- 25 no. four-bedroom two-storey houses; and
- 20 no. four-bedroom three-storey houses.

2.4. A total of 144 no. apartments in 3 and 4 storey blocks are proposed, broken down as follows:

- 40 no. two-bedroom duplex apartments;
- 60 no. two-bedroom apartments; and
- 44 no. three-bedroom duplex apartments.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Fingal County Council issued notification of decision to grant permission subject to eight conditions.
- 3.1.2. Condition 4 states that the middle section of the C-Ring road shall be completed before construction of residential units in “Ladywell Avenue” sector.
- 3.1.3. Under Condition 6, it is stated that the middle section of the C-ring shall include an access road into the public park. It is also a requirement under this condition that the boundary treatment along the Boulevard Road shall provide for pedestrian permeability.

3.2. Planning Authority Reports

- 3.2.1. The recommendation to grant permission, as outlined in the Planner's Report, reflects the decision of the Planning Authority.
- 3.2.2. It is noted that the applicant is seeking to *'regularise the permission by omitting all those elements of the parent permission which have since been superseded and/ or amended'* and that the proposal does not include any alterations to the quantum, layout or design as permitted under the parent permission.
- 3.2.3. The proposal is considered to accord with the zoning objectives for the site and the objective to prepare a masterplan for the lands. The proposed houses and apartments comply with Objective DMS24 in respect of room sizes, widths and living accommodation and the Ladywell Avenue Sector meets the required public open space standards set out in the current Development Plan.
- 3.2.4. The applicant is not now proposing the middle section of the C-Ring road that formed part of the parent permission. However, given the importance of the boulevard and C-Ring, and the fact that the C-Ring is an objective of the Development Plan, it is considered that these sections of road should be delivered ahead of any residential units within 'Ladywell Avenue' being occupied. The Transportation Section also recommend that the Boulevard Road, the middle section of the C-Ring road and the link to the public park are provided as part of the proposed development.
- 3.2.5. Public open space is proposed to the north-west of the application lands (as amended under Reg. Ref: F15A/0550) and it is stated that a condition should be attached in this regard in the interests of clarity.
- 3.2.6. It is highlighted that the proposal is an amendment of the parent permission that will expire on 18th July 2019 and having regard to Section 251 of the Act, any amendment permission will also expire on that date. It is also noted that the conditions of the parent permission remain applicable save for changes proposed under the current application.
- 3.2.7. It was recommended by the Parks and Green Infrastructure Division that further information should be sought in the form of a phasing plan for the construction and delivery of the public park (as amended), as well as details on the quantum of class 1 public open space within the public park that is attributed to the current application.

- 3.2.8. A submission by Cllr. Tony Murphy outlines concerns regarding the delivery of public open space and roads, as well as house types and density. It is also considered inappropriate to provide open space on top of under-croft parking.

4.0 Planning History

Fingal County Council Reg. Ref: F07A/1249 (PL06F.231457)

- 4.1. The Board granted a 10-year permission to Crescent Park Properties Ltd. on 20th April 2009 for development on a 36.08 hectare site north of Naul Road, south of Flemington Lane, east of Clonard-Bridgefoot Road and west of Moylaragh for 998 no. dwellings including a boulevard running from the intersection with the proposed C-Ring Road south to Naul Road. As part of this planning application, a site of 1.8 hectares is being reserved for a primary school.
- 4.2. Condition 3 states that the Class 1 open space and access thereto shall be fully developed before commencement of construction of the 500th dwelling, and dwellings in the River Court, Naul Road and Ladywell Avenue sectors shall not be occupied before the boulevard and C-Ring are constructed.
- 4.3. Condition 6 relates to the design of buildings (Type 31) within the Ladywell Character Area which were to be amended to minimise overlooking. Condition 18 stated that the proposed crèches within each character area shall be available before 50% of dwellings are occupied.

Fingal County Council Reg. Ref: F13A/0240

- 4.4. A ten-year planning permission was granted for development consisting of 99 no. dwellings, public open space, etc. all on lands off the Naul Road and north of St. George's National School; west of the Moylaragh housing estate; northwest of the Hampton Gardens housing estate and south of the Martello housing estate.

Fingal County Council Reg. Ref: F15A/0437

- 4.5. Permission granted (01/02/16) for revisions to Reg. Ref. F13A/0240 to include revised house types and layout, and increase in number of dwellings from 99 no. to 129 no.

Fingal County Council Reg. Ref: F17A/0374

- 4.6. Permission granted (25/09/17) for alterations to Reg. Ref: F15A/0437 to consist of amendments to previously approved house types and housing mix to increase the number of dwellings from 129 to 130 no.

Fingal County Council Reg. Ref: F15A/0550

- 4.7. Permission granted (03/10/16) for 148 no. dwellings, crèche facility and provision of a Class 1 public park located to the west of Bremore Pastures and Hastings Lawn, south of Flemington Lane and north west of proposed development.

- 4.8. Permission was also sought to amend the location within the Class 1 public park of approved Class 1 public open space arrangements for previously permitted developments.

- 4.9. Condition 3 of this permission states that no development shall commence until a phasing plan for the development and delivery of the Class 1 open space is agreed in writing with the Parks & Green Infrastructure Division. Details were also required of the staggered junction linking Hamlet Lane with the public open space.

Fingal County Council Reg. Ref: F15A/0242

- 4.10. Permission granted (18/08/15) for a 450 pupil post primary school building with Phase 2 comprising extension to accommodate 300 additional pupils, all on a site c.5.5 hectares located to the north-west of the existing St George's National School.

Fingal County Council Reg. Ref: F08A/0998

- 4.11. Permission granted for a mixed use local centre located within island site to north-east of Ladywell Avenue sector.

5.0 Policy Context

5.1. Fingal County Development Plan,

- 5.1.1. The Ladywell Avenue sector, where the works are proposed, is zoned 'RA' where the objective is *to 'provide for new residential communities in accordance with approved local area plans and subject to the provision of necessary social and physical infrastructure.'*

- 5.1.2. Other lands within the overall site boundary are zoned 'CI' with the objective to 'provide for and protect civic, religious, community, education, healthcare and social

infrastructure’, and ‘OS’ – to ‘preserve and provide for open space and recreational amenities’.

5.1.3. There is an objective to prepare a masterplan for the lands (North West Balbriggan Masterplan).

5.1.4. There is also an indicative road proposal to the west of the subject lands (C-Ring).

5.2. Natural Heritage Designations

5.2.1. River Nanny Estuary and Shore SPA is approximately 4.2km to the north of the site and the Skerries Islands SPA and NHA is approximately 7.5km to the east.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Two third party appeals against the Council’s decision have been submitted to the Board by a resident of Flemington Park to the north of the site, and by the Balbriggan Community Council. The grounds of appeal and main points raised in these submissions are summarised as follows:

James Halligan, 33 Flemington Park

- This is overdevelopment and there is unsuitable infrastructure in place to deal with increased demand;
- All roads and public spaces must be put in place first;
- There will be changes to the skyline that will have a negative effect in an elevated area – 3 & 4 storey buildings should not be allowed.

Balbriggan Community Council

- Planning Authority has failed to address the important issue of Class 1 public open space;
- Parks Division recommended further information on the phasing and quantum of class 1 public open space – previous conditions regarding the delivery of class 1 public open space were ignored.

- No open space has been delivered to date.
- Requirement to complete roads is too serious of an issue to request as a condition of permission (condition 6) – there will be no third party input to agreed proposal.
- There is ambiguity regarding the roads layout and by granting permission it leaves it unclear.
- Family homes are needed to allow existing young families to ‘trade up’ – apartments should be omitted from the proposal.

6.2. Applicant Response

6.2.1. The applicant’s agent responded to the third party appeals with the following comments:

Public Park

- Applicant is fully committed to delivering the public park within an anticipated timeframe of Spring 2018 subject to compliance approval of Condition 3 of Reg. Ref: F15A/0550 (phasing plan for class 1 public open space).
- LAP makes it clear that 21 hectare public park is to be delivered in agreement with the Council, of which 7.1142 hectares will be delivered by Crescent Park Properties.
- No dwellings have been constructed on foot of the parent permission, Reg. Ref: F15A/0437 and F15A/0550. Subsequent permissions make provision for Class 1 public open space provision.
- 1.4994 hectares of Class 1 public open space is required to serve the proposed development, as the quantum, layout and design of Ladywell Avenue sector remains unchanged.
- Reg. Ref: F15A/0550 includes an amendment to the design of the public park, specifically with arrangement and provision of formal pitches, which went above what was required of the applicant. A schedule for the delivery and build out of the proposed park was submitted as further information.

- There is no current non-compliance issue with the parent permission or Balbriggan LAP, as no house construction has commenced under Phase 1 of F07A/1249 or any subsequent amendment permissions.
- It is proposed that works to provide the public park will commence within 1 month of approval by the Council of compliance under Reg. Ref: F15A/0550 and would be completed within 6 months – construction program for site is expected to commence early 2018.

Roads Infrastructure

- Applicant is satisfied that Condition 6 of the Council's decision is an appropriate means of ensuring that this section of roadway is provided to current standards – the condition is generally a copy of Conditions 4 & 5a of PL06F.231457.
- Density of development at 34 dwellings per hectare is consistent with Guidelines for outer suburban/ greenfield sites.
- In terms of infrastructure, 300m of boulevard road is already constructed, as well as new schools, the Castlemill Link Road and Balbriggan-Skerries wastewater treatment scheme. Delivery of new park is due to commence in early 2018.
- Proposal will contain nine different house types and six different apartment types – proposal provides for a suitable mix of unit types in a high quality environment.
- Application does not propose any additional development or alterations within Ladywell Avenue, thereby retaining the quantum, layout and design (including height) as granted under PL06F.231457.

6.3. Planning Authority Response

- 6.3.1. In response to the third party appeals, the Planning Authority refers to Conditions 4, 5 and 6 of the grant of permission, which will phase the orderly development of the proposal and ensure a cohesive development. It is also considered evident from the Planner's Report that there is the continued and essential requirement for the Class 1 public open space, the Boulevard and C-Ring roads.

6.3.2. The Planning Authority also highlight that the proposal is not an amendment to the residential units within the scheme per se. In this regard, the proposed apartments comprise a part of an extant permission that could be implemented at present.

7.0 **Assessment**

7.1. Having considered the contents of the planning application, grounds of appeal, issues raised in submissions, the planning history of the site and the surrounding site context, I consider that this appeal should be assessed under the following:

- Development principle;
- Compliance with current standards;
- Design, layout, density and dwelling mix;
- Provision of infrastructure;
- Appropriate Assessment.

7.2. **Development principle**

7.2.1. The appeal site boundary encompasses a 36.08 hectare area covered by a 10-year planning permission Reg. Ref: F07A/1249 (PL06F.231457) granted by the Board on 29th April 2009 for 998 no. dwellings, roads and public open space within five development areas (Flemington Village, Naul Park, River Court, Hampton Court and Ladywell Avenue). This permission also included reservation of a site for a primary school and construction of a boulevard (avenue) running from the intersection with the proposed C-Ring Road south to Naul Road.

7.2.2. The current proposal, as described in public notices, is for alterations to the previously approved development by omitting the Flemington Village, Naul Park, River Court and Hampton Court sectors, as these have now been superseded by a number of subsequent planning permissions. The omission of these sectors results in an altered permission comprising only Phase 1 public open space (as amended by Reg. Ref: F15A/0550), Boulevard Road, and the Ladywell Avenue sector of the development (233 no. dwellings). A section of the Boulevard Road is completed and it is proposed as part of the current planning application to complete this road from

the intersection with the proposed C-Ring Road south to constructed section off Naul Road.

- 7.2.3. The applicant's reason for the planning application is to regularise the permission owing to the fact that the parent permission cannot be fully implemented due to the subsequent permissions and changes in land ownership in the Flemington Village, River Court and Hampton Court sectors. No alterations, however, are proposed to the quantum, layout and design of the Ladywell Avenue sector in the current application. The proposal is essentially a repeat of what was permitted within this sector.
- 7.2.4. Having regard to the 'RA' zoning objective for the site which seeks to *'provide for new residential communities in accordance with approved local area plans and subject to the provision of necessary social and physical infrastructure'* and to the planning history of the site, I consider that the principle of the proposed development has been established. It should be noted, however, that the parent permission was granted under the tenure of the Final Development Plan, 2005-2011. Any proposal should therefore be assessed having regard to the relevant policies and objectives of the 2017-2023 Fingal Development Plan. Consideration should also be given to any pertinent statutory guidance adopted in the intervening period since the granting of the parent permission.
- 7.2.5. The Planner's Report raises a procedural issue in that the current proposal is an amendment to the parent permission. It is stated that this permission is due to expire on 18th July 2019 and having regard to Section 251 of the Planning and Development Act, 2000 (as amended), any amendment permission will also expire on that date. In my opinion, a planning permission is for a period of 5 years whether or not it is described as an amendment or alterations application. Section 251 of the Act refers to the calculation of the appropriate period taking into account the period between 24th December and 1st January.

7.3. **Compliance with current standards**

- 7.3.1. As noted, permission for the Ladywell Avenue sector was granted under the 2005-2011 Development Plan when this part of the overall site was similarly zoned "RS1 - *to provide for new residential communities in accordance with approved local area*

plans and subject to the provision of the necessary social and physical infrastructure.” The permitted development would have been in accordance with this objective and with the overall aims of the Development Plan relating to urban design and residential development. The 2005-2011 Development Plan was replaced by the 2011-2017 Development Plan and this plan has also elapsed. The relevant plan is now the 2017-2022 Development Plan.

- 7.3.2. The current Development Plan contains new sections on Placemaking (Chapter 3), and Development Management Standards for urban and residential development (Chapter 12). Objective PM14 in Chapter 3 seeks to *“prepare masterplans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated.”*
- 7.3.3. There is now a specific objective to prepare a masterplan for the subject lands (MP4.B – North West Balbriggan Masterplan) to *“provide for a programme for the phasing of construction of residential and commercial development in tandem with the delivery of transport, recreational, community and educational infrastructure.”* Under Chapter 4 – “Urban Fingal”, it is stated that in accordance with Objectives PM14 (Chapter 3, Placemaking), Masterplans shall be prepared and agreed by the Planning Authority prior to the submission of any planning application and the Masterplans shall provide for the phased development of subject lands as appropriate.
- 7.3.4. It may be contended that the proposed development is premature pending the completion of the North West Balbriggan Masterplan. However, it is stated in the Planner’s report that *“given the nature of the proposed development, specifically an amendment to an existing permission which results in no net increase in dwellings, the proposed development is considered acceptable in the context of the objective to prepare a masterplan for the lands.”*
- 7.3.5. I would be of the opinion that the proposed development and adjoining planning applications would have benefited from an overarching document such as a masterplan for the lands, particularly in circumstances where land ownership has changed and there are outstanding issues regarding the shared provision of infrastructure to serve the lands. However, adjoining applications also within MP4.B

masterplan lands have now been granted in advance of a masterplan and I consider that if the required infrastructure to serve all the lands can be secured by way of conditions attached to all planning permissions contained therein, the overall intention of the MP4.B masterplan can be achieved. It should be noted that Development Plan Objective Z03 seeks to *“prepare and implement Masterplans where required.”*

- 7.3.6. As well as any change in Development Plan policy from the time of the original grant of permission, consideration should also be given to relevant Ministerial Guidelines (Appendix 5 of the current Development Plan), particularly those which have been adopted since the parent permission was granted.
- 7.3.7. The Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities was adopted in May 2009 after the granting of parent permission by the Board in April 2009. This document would have been in draft form from February 2008 but the parent application is presented within planning documentation as complying with the Residential Density Guidelines for Planning Authorities, 1999, together with the Sustainable Urban Housing: Design Standards for Apartments. Reference was made, however, to the Sustainable Residential Development in Urban Areas - Consultation Draft Guidelines within the first party appeal response on the parent permission.
- 7.3.8. The Design Manual for Urban Roads and Streets adopted in 2013 seeks to provide guidance on how to approach the design of urban streets in a more balanced way. It sets out an integrated approach to promote better street design by slowing traffic speeds and by encouraging careful place making, quality public realm and walking and cycling. The principles, approaches and standards set out in the Manual apply to the design of all urban roads and streets with a speed limit of 60 km/h or less.
- 7.3.9. The above documents are referred to in the current Development Plan. It is the aim of Development Plan Objective PM31 to *“promote excellent urban design responses to achieve high quality, sustainable urban and natural environments, which are attractive to residents, workers and visitors and are in accordance with the 12 urban design principles set out in the Urban Design Manual – A Best Practice Guide (2009).”* Furthermore, under Objective PM32 the Council will *“have regard to the joint Department of Transport, Tourism and Sport and the Department of*

Environment, Community and Local Government's Design Manual for Urban Streets and Roads (DMURS), (2013) and the National Transport Authority's Permeability Best Practice Guide (2015), in the provision of good urban design."

- 7.3.10. Essentially, I am now assessing a development that was formulated more than 10 years ago when important ministerial guidance had yet to be adopted. The circumstances of the current proposal reflect a now common economic and planning dilemma, whereby a 10-year planning permission granted before the Financial Crises is still live, albeit amended and in need of regularisation. Little activity has occurred on the ground to implement this permission and new guidelines and standards relating to residential development have since been adopted. Notwithstanding this, I do not consider that a complete redesign of the scheme may be necessary in order to comply with current standards.
- 7.3.11. In my opinion, the test is to establish whether or not the existing proposal can contribute to sustainable place-making through promotion of appropriate residential densities for this location, and an appropriate variety and mix of good quality, well designed dwelling types and sizes. The idea of easy connectivity, particularly for pedestrians and cyclists, to existing facilities and the prioritisation of the pedestrian and cyclist above private motorists within urban streets should also form the basis for any modern residential development. This is assessed in further detail hereunder.

7.4. Layout, design, density and dwelling mix

- 7.4.1. As noted above, the layout of any residential development should facilitate good linkages for pedestrians and cyclists. Traffic speed should also be discouraged by way of layout and design rather than the use of certain anti-speed devices, such as speed humps or cameras. Layouts can also be improved through implementation of urban design principles, as promoted within the Sustainable Residential Development in Urban Areas Guidelines. The development should be well connected with its neighbourhood; there should be a good mix of activities; proposals should create a sense of place; streets and spaces should be people friendly; the public realm should be safe, secure and enjoyable; and car parking should be secure and safe. In addition, Objective 11 for Balbriggan seeks to *"ensure a safe and convenient road, pedestrian and cycle system promoting permeability,*

accessibility and connectivity between existing and new developments within the town.”

- 7.4.2. I would have some concern that the proposed scheme represents a design and layout from a time when less consideration was given to the role of pedestrians in place-making. There are many instances where pedestrian desire lines are not incorporated into the layout. This is particularly evident in terms of potential south to north movement patterns that will occur through the site from the dwelling houses. The current design is likely to give rise to worn pathways through the grounds of the apartments aligning the Boulevard, particularly from the location of the central cul de sac. The Boulevard will be a destination for pedestrians accessing bus routes, the local centre and schools and in my opinion there is likely to be a north-western draw from the development site. It should also be noted that no bus stops are shown along this road and therefore pedestrian desire lines to bus services are unknown. In my opinion, pedestrian movement in general was not fully considered when the layout was being formulated.
- 7.4.3. There will also be certain obstacles to pedestrian movement within the site. The Boulevard Road does not contain any pedestrian crossing facilities and in general this road is designed for traffic speed. There is an almost straight section of Boulevard roadway extending over a distance of c. 300m and the carriageway appears to be 7m wide when a condition was attached to the parent permission stating that it shall be a maximum of 6.5m in width. Any increase in carriageway width and improvements to forward visibility gives rise to increased design speeds. I would also be of the opinion that the curvature and forward visibility of the internal access road is such that the intended speed of 30 kph will be exceeded. This may be particularly hazardous for cyclists who would normally be expected to share 30 kph roads without the need for dedicated cycle lanes. The lack of any sense of enclosure along this road may also encourage increased traffic speeds.
- 7.4.4. The quantum of open space within the development area appears to be reasonable, with the provision of a Class 2 active urban square to the west, Class 2 passive open space above the under-croft parking and Class 2 active open space to the south of the access road. Added to these are landscaped pond areas beside the urban square, active open space and along the linear park to the south-east of the development area. In my opinion, public open spaces are disconnected and the

linear park appears severed from the remainder of the site. The opportunity is lost to continue the southern end of the linear park along the south-western site boundary to connect with the Class 2 active open space. Furthermore, the pedestrian crossing between the Class 2 active open space and landscaped pond area is poorly positioned.

- 7.4.5. I would also have concerns that the quality of the active urban square will be diminished by cars accessing the under-croft parking along the north-eastern boundary of this space. A total of 89 no. car parking spaces are proposed at this location and this could give rise to continuous access at busy times over a shared surface, particularly in evenings when the open space is in greater use. I consider that the under-croft parking should be accessed directly from the main road to the west in the interests of traffic and pedestrian safety.
- 7.4.6. The current standards for car parking within Table 12.8 of the Development Plan advise a provision of 1-2 spaces for 1-2 bed houses; 2 spaces for 3+ bed houses; 1 space per 1-bed apartment plus 1 visitor space per 5 units; 1.5 spaces per 2-bed apartment plus 1 visitor space per 5 units; and 2 spaces per 3+ bed apartment plus 1 visitor space per 5 units. A total of 398 no. spaces are proposed and this is not excessive having regard to current standards.
- 7.4.7. With respect to design criteria for residential development, a suitable mix of housing types should be provided and increased residential densities should be encouraged at appropriate locations. The proposed development comprises approximately 38% houses and 62% apartments. Overall, the development contains 111 no. 2-bed units (48%), 77 no. 3-bed units (33%) and 45 no. 4 bed units (19%). Household sizes will continue to decrease in future and it is of some concern that the proposed development does not contain any 1-bed units. It also appears that no 1-bed units are proposed within the other sectors that made up the parent permission and only 2 no. 1-bed apartments are proposed within the local centre. I would be satisfied, however, that the lack of 1-bed units is offset somewhat by the provision of high number of 2-bed units within the proposed development.
- 7.4.8. The applicant has submitted a schedule of floor areas and it is confirmed that the proposal complies with Development Plan Objective DMS24, which requires new

residential units to comply with or exceed minimum standards relating to dwelling areas, room sizes and storage.

- 7.4.9. The Ladywell Avenue sector comprises an area of 7.3 hectares and the provision of 233 no. dwellings would therefore equate to a density of 32 dwellings per hectare. The Sustainable Residential Development in Urban Areas Guidelines recommends net residential densities in the general range of 35-50 dwellings per hectare for outer suburban/ greenfield sites. The proposal is marginally below the recommended; however, the Guidelines also state that net densities less than 30 dwellings per hectare should generally be discouraged.
- 7.4.10. Overall, I would have difficulty recommending a grant of permission for the Ladywell Avenue sector as presented. The development fails to meet many of the standards appropriate to a modern day development as reflected in the current Development Plan and within guidance, most notably the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, and the Design Manual for Urban Roads and Streets. Section 3.4 of the Development Plan, “Sustainable Design and Standards” states that good design is achieved by the way we arrange streets and spaces and how we plan the mass, scale and position of buildings within the landscape. In my opinion, this has been poorly executed in many instances throughout the proposed development.
- 7.4.11. Notwithstanding above, the current planning application must also be seen within the context of the parent permission on site and surrounding planning permissions granted subsequently. Rather than refuse the development or seek further information, it may therefore be pertinent for the Board to attach conditions to improve the quality of the place over what was permitted originally. Consideration should also be given to the subsequent permitted schemes that made up parent permission, and in this regard, the proposal could be seen as a continuation of the permitted pattern of development in the area.

7.5. Provision of Infrastructure

- 7.5.1. The main concern of appellants is that there are outstanding issues with respect to the provision of Class 1 public open space and roads to serve the proposed development.

- 7.5.2. With respect to public open space provision, Condition 5 of the Council's decision requires the developer to agree in writing with the Planning Authority a schedule for the development and delivery of Class 1 public open space. A similar condition was attached by the Council to Reg. Ref: F15A/0550 and it would appear therefore that this matter is being addressed by the applicant and Local Authority. It is stated in the appeal response that the applicant is fully committed to delivering the public park to the north-west of the site and anticipates that works will commence in Spring 2018.
- 7.5.3. Condition 4 attached to the Council's decision states that *"the residential units in 'Ladywell Avenue' Sector shall not be constructed until the Boulevard and the middle section of the C-Ring road connecting the northern portion of the Boulevard to the junction with Hamlet Lane are completed and open to traffic between Naul Road and Hamlet Lane."* In addition, Condition 6 requires the middle section of the C-Ring (i.e. connecting the northern portion of the Boulevard to the junction with Hamlet Lane) to be delivered, with the middle section of the C-Ring to include an access road into the public park. The applicant confirms in the appeal response that they are satisfied with Condition 6 and that in general this condition reflects Condition 4 and 5 of the parent permission.
- 7.5.4. Having regard to the above, I consider that the appropriate open space and roads infrastructure to serve the proposed development can be secured by way of condition.

7.6. **Appropriate Assessment**

- 7.6.1. The River Nanny Estuary and Shore SPA is approximately 4.2km to the north of the site and the Skerries Islands SPA is approximately 7.5km to the east. The Rockabill to Dalkey Island SAC is approximately 9.1km to the east and the Rockabill SPA is approximately 9.6km to the east.
- 7.6.2. Having regard to the nature and scale of the proposed development, impact pathways would be restricted to hydrological pathways. SuDS will be employed to treat and control run-off and the proposed development will be connected to public foul mains. Having regard to the distance between the site and nearest European sites, and the fact that any pollution events occurring during the construction phase are likely to result in very small concentrations of contaminants reaching the

European Sites, there is little risk of significant impacts during the construction phase.

- 7.6.3. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites No's: 004158, 004122, 003000 and 004014 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.7. Conclusion

- 7.7.1. Planning permission is sought to regularise part of the same development that was granted permission by the Board in 2009. Changes in Development Plan policy and the adoption of ministerial guidelines since the original grant of permission render the proposed development, formulated more than 10 years ago, somewhat outdated and typical of a suburban style layout that favours the private car.
- 7.7.2. Notwithstanding this, the proposed development should be viewed in the context of subsequent permissions granted on adjoining lands that made up the parent permission. In this respect, the proposal represents a continuation of the permitted pattern of development in the area. Should the Board be minded to grant permission, certain conditions can be attached to improve the quality of the development over that which was originally permitted.

8.0 Recommendation

- 8.1. It is considered that the proposed development should be granted for the reasons and considerations hereunder.

9.0 Reasons and Considerations

Having regard to the zoning objective for the site, the planning history and pattern of development in the area, together with the design, layout and density, it is considered that, subject to compliance with conditions below, the proposed

development would not seriously injure the visual amenities of the area or residential amenities of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, 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, 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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on 20/04/2009 under appeal reference number PL06F.231457, planning register reference number F07A/1249, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. The proposed development shall be amended as follows:
 - (a) Vehicular access to the undercroft car parking shall be from the roadway to the west thereof only. No vehicular access shall be permitted from the shared surface area to the south of this car park.
 - (b) The Boulevard Road shall be redesigned to include bus stops, traffic calming measures, and pedestrian/ cycle crossings and facilities in

accordance with the Design Manual for Urban Roads and Streets
Design Manual for Urban Streets and Roads, (2013);

- (c) The proposed boundary treatment along the Boulevard Road shall provide for pedestrian permeability;
- (d) The internal access road shall include traffic calming measures at appropriate intervals to limit traffic speeds to a maximum of 30kph;
- (e) The pedestrian crossing shall be centrally positioned between the Class 2 active open space and landscaped pond area towards the south of the site.

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

Reason: In the interests of road safety and residential amenity.

4. Prior to commencement of development, the applicant shall submit a pedestrian and cyclist permeability and accessibility strategy for proposed development that complies with the principles set out in the Design Manual for Urban Roads and Streets (2013) and the National Transport Authority's Permeability Best Practice Guide (2015). This shall include measures to improve pedestrian/ cyclist accessibility from within the development to the linear park and Boulevard Road.

Reason: In the interests of pedestrian and cyclist safety and convenience.

5. The residential units in the 'Ladywell Avenue' Sector shall not be constructed until the Boulevard and the middle section of the C-Ring road connecting the northern portion of the Boulevard to the junction with Hamlet Lane are completed and open to traffic between Naul Road and Hamlet Lane. The middle section of the C-Ring shall include an access road into the public park. Prior to commencement of development, the developer shall agree in writing with the Planning Authority a revised site layout plan

indicating details of these roads.

Reason: To ensure the provision of adequate and safe access to serve the proposed development.

6. The internal road network and external access junctions serving the proposed development, including turning bays, junctions, parking areas, footpaths, pedestrian crossings, cycleways and kerbs shall otherwise 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. Prior to commencement of development, the developer shall agree in writing with the Planning Authority a schedule for the development and delivery of the Class 1 public open space serving the proposed development.

Reason: In the interests of orderly development.

8. 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.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Donal Donnelly
Planning Inspector

20th December 2017