



An
Bord
Pleanála

Inspector's Report ABP-300104-17

Development

(A) Demolition of 2 no. existing derelict houses (B) Construction of 14 no. two storey houses consisting of 1 no. detached unit, 3 no. mid-terrace units, 4 no. semi-detached units, 6 no. end of terrace units (C) Provision of off street parking (D) New access road with new entrance off Feltrim Road (E) New boundary walls (F) Provision of public footpaths and all associated site works.

Location

Drynam Green, Feltrim, Swords, Co. Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F17A/0167

Applicant(s)

Victoria Homes LTD.

Type of Application

Permission.

Planning Authority Decision

Grant Permission.

Type of Appeal

Third Party

Appellant(s)	Arlene & David Latham and Others.
Observer(s)	None.
Date of Site Inspection	13 th February 2018.
Inspector	Karen Kenny

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1.0 Site Location and Description

- 1.1. The appeal site is located on the Feltrim Road in Swords. It is approximately 1 kilometre to the east of the M1 Motorway and 100 metres north of the junction of Feltrim Road and Kettles Lane. This is a transitional area at the interface between the urban area of Swords and greenbelt lands to east and south. Lands to the north and west are characterised by housing.
- 1.2. The triangular shaped site (c. 0.36 hectares) is bounded by the Feltrim Road to the east, by a residential cul-de-sac to the west and an open field to the south. The site comprises the grounds of two derelict houses and is overgrown with mature trees, hedges, ornamental planting and scrub vegetation. The external boundaries are defined by tree and hedge planting with most trees occurring along the northern boundary with 'Drynam Green'. The site is flat and there are no notable level differences in the area. 'Drynam Hall' a large housing development comprising housing and apartments of two and three storeys, is located to the immediate north and west.
- 1.3. The Feltrim road is a heavily trafficked local road. The site is within the 50 kph speed limit and the urban footpath terminates just north of the site.

2.0 Proposed Development

- 2.1. The original details submitted to the Planning Authority sought planning permission for the demolition of the 2 no. derelict houses on site and the construction of 14 no. two storey houses consisting of 1 no. detached dwelling, 9 no. terrace dwellings and 4 no. semi-detached dwellings, in addition to a new access road from Feltrim Road connecting to a cul-de-sac to the west.
- 2.2. The scheme is revised on foot of a request for additional information from the Planning Authority. It is proposed to construct 11 no. two storey houses along the southern site boundary, consisting of 9 no. terrace dwellings and 2 no. semi-detached dwellings. A three storey apartment / duplex block is proposed in the northern corner of the site consisting of 2 no. 3 bed apartments and 4 no. 2 bed

duplex units. A new vehicular access is proposed from Feltrim Road to connect to the cul-de-sac to west and it is proposed to extend the footpath along the Feltrim Road.

2.3. The following Reports were received by the Planning Authority at further information stage:

- Bat Survey.
- Design Appraisal.
- Arboricultural Assessment.

3.0 Planning Authority Decision

3.1. Decision

Grant Permission. The following conditions are of note.

2. The permission authorises 11 no. dwellings and 6 no. apartments. Proposed three bedroom apartments at ground floor shall be redesigned as two bedroom units.
3. Developer to submit revised plans showing revised living areas for ground floor apartments providing for the relocation of the living room / kitchen areas to provide direct access to private open space. Revised plans for bin storage and bicycle storage areas are also sought.
4. Developer to submit revised plans for car parking bays along the northern site boundary providing parallel spaces in place of perpendicular spaces.
5. Hedgerow along southern boundary to be removed and replaced with a 2-meter-high masonry wall. Railings shall be erected above the 900mm wall to the north east of Block A.
7. Pre-construction bat survey of existing dwellings prior to demolition.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Following an initial assessment further information was sought in relation to issues including the design of dwellings and compliance with internal space and open space standards, layout, vehicular entrance and access road, boundary treatments, landscaping, surface water drainage and water supply. A bat survey of the existing structures was also requested. Following the submission of 'significant further information' the Planner's Report can be summarised as follows:

- A net density of c. 47 units per hectare is proposed, which is in accordance with the Guidelines for Sustainable Development in Urban Areas.
- Revised layout considered generally acceptable.
- No objection to the removal of 31 out of 32 mature trees and hedgerows.
- The proposed development would add to the housing stock in the area and complies with the standards of the Development Plan with regard to protection and improvement of existing and proposed residential amenity and as such is considered to be consistent with the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

Water Services:	No objection.
Transport Planning:	Clarification sought in relation to parking layout and location of bin stores and cycle parking.
Parks and Green Infrastructure:	A revised landscaping plan sought. No justification for removal of 31 out of 32 no. trees (inc. trees of moderate quality / value). Retention of hedge along southern boundary will be difficult to achieve due to position within private gardens. Further information sought in relation to tree pits and bio retention swale.
Public Lighting:	No objection.

3.3. Prescribed Bodies

Irish Water:	No objection.
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3.4. Third Party Observations

- 3.4.1. A total of 7 no. third party submissions were received and considered by the Planning Authority. The issues raised are similar to the issues raised in the grounds of appeal set out below.

4.0 Planning History

- 4.1. The Planning History pertaining to the appeal site is as follows:

Reg. Ref. F12A/0315: Application for demolition of existing dwellings and construction of 9 no. dwellings on a site of 0.409 hectares. Permission granted for 8 no. dwellings.

Reg. Ref. F06A/1561: Application for demolition of existing dwelling and construction of 34 no. apartments in a three to four storey block. Permission granted.

Reg. Ref. F05A/0612: Application for the construction of two bungalows. Permission granted.

Reg. Ref. F04A/1493: Application for demolition of existing dwellings and construction of 7 no. dwellings. Permission granted.

- 4.2. The Planning History pertaining to lands to the south and west of the appeal site is as follows:

Reg. Ref. PL.06F235514 / F09A/0021: Application for 67 apartment / duplex dwellings in three to four storey blocks (amendment to Phase 4 of Drynam approved under F04A/1850). Permission refused by the Planning Authority. This decision was subject to a third party appeal to An Bord Pleanála. An Bord Pleanála refused planning permission for 3 no. reasons.

The reason for refusal can be summarised as follows:

1. Revisions to Reg. Ref. PL06F.212984, due to inappropriate design (regimented layout, poor connectivity to open space, lack of central focus/sense of place) would seriously injure the existing and future occupants of residential developments.

2. Proposed two access points in close proximity to a permitted access point on the adjoining site and to the junction of Drynam Green with Kettles Lane would result in increased right turning movements and would create confusion at this location.
3. Noncompliance with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in September 2007 (minimum floor areas, drying facilities and play areas).

Reg. Ref. PL06F.221793 / F06A/1410: Application for alterations and additions to the layout approved under Reg. Ref. PL06F/212984 to provide 62 no. dwellings 17 dwellings and 45 no. apartments. Permission refused by the Planning Authority. This decision was subject to a third party appeal to An Bord Pleanála. An Bord Pleanála (contrary to the inspector's recommendation) refused planning permission for 2 no. reasons.

The reason for refusal can be summarised as follows:

1. Revisions to Reg. Ref. PL06F.212984 represent a substandard revision of the layout under which substantial areas of public open space would be lost and the open space area between apartment blocks would be dominated by surface car parking.
2. The overall design of the revised scheme, including the multiplicity of roof profiles, is considered inappropriate in a transitional zone at the interface between the greenbelt and the urban fringe where permission was previously granted on site for a scheme of higher quality.

Reg. Ref. F04A/1850: Application for 12 no. two and two and a half storey houses and 50 no. apartments in blocks of four and five storeys. Permission granted by the Planning Authority. This decision was subject to a third party appeal to An Bord Pleanála. An Bord Pleanála upheld the decision of the Planning Authority and granted planning permission. Extension of duration granted up to January 2016.

Reg. Ref. F02A/0581: Application for mixed use development comprising 434 no. residential units comprising 337 no. houses and 97 no. apartments, 1 no. community centre, 1 no. childcare facility, 1 retail unit and 1 no. medical facility. Permission granted.

5.0 Policy Context

5.1. National Guidance

5.1.1. In my assessment of this case, I had due regard to relevant national policy including the following guidance documents:

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (DEHLG 2009) and the accompanying Urban Design Manual: A Best Practice Guide (DEHLG 2009),
- Design Manual for Urban Roads and Streets (DMURS) (DECLG and DTTS 2013), and
- Development Management Guidelines for Planning Authorities, (DEHLG, 2007).

5.2. Development Plan

5.2.1. The Fingal County Development Plan 2017-2023 is the relevant statutory plan. The following sections of the Fingal County Development Plan 2017-2023 are considered to be relevant:

- The site is zoned RS 'Residential' with an objective to 'provide for residential development and protect and improve residential amenity'. The zoning vision is to 'ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity'. Residential development is permitted in principle in this zone.
- The site is located within the development boundary of Swords. Swords is designated as a Metropolitan Consolidation Town in the RPGs and in the Development Plan Core Strategy and is identified, along with Blanchardstown

as a primary development centre within Fingal and in the Metropolitan area of Dublin.

- Chapter 3 sets out Design Criteria for Residential Development including mix of dwellings, density and open space provision.
- Chapter 12 sets out Development Management Standards for residential development including design criteria and quantitative standards relating to dwelling size, separation standards, public and private open space provision, car parking, etc.
- Sheet No.8 Swords: The site is within the development boundary of Swords identified on the Map and is bounded by a proposed cycle / pedestrian route corridor.

5.3. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal has been received from residents of Drynam Green. The grounds of appeal, that are relevant to the appeal, can be summarised as follows:

- Oppose vehicular through access from Feltrim Road via Drynam Green. Route will serve as a rat run for traffic accessing residential estates to the west, contrary to DMURS which recommends filtered permeability but discourages through trips.
- Road alignment on Drynam Green / Kettles Lane is narrow and not suitable to carry increased traffic volumes.
- Significant amendments proposed in response to request for further information. A new planning application should have been submitted.
- Insufficient car parking and a lack of clarity on final parking layout due to conditions of the permission.

- No disabled car parking or electric charging points.
- Development will contribute to increased traffic volumes in the area. Volumes of traffic at junction of Kettles Lane and Feltrim Road have significantly increased leaving it difficult to access the Feltrim Road.
- Development will negatively impact on the public bus service.
- Previous application included proposal to widen entrance road from Drynam Green from 5.5 metres to 6.6 metres to accommodate perpendicular car parking.
- Density and height of proposed development will impact negatively on the area.
- Development should take account of previously granted permission on lands to south. Mix of design styles would be unattractive from a design perspective and visually obtrusive.
- Boundary wall sought to separate new development from Drynam Green.

6.2. Applicant Response

6.2.1. Joe Bonner, Town Planning Consultant, has submitted a response to the appeal on behalf of the applicant. The response can be summarised as follows:

- Revisions arising on foot of the request for further information were deemed to be significant and the application was advertised in accordance with legislative requirements.
- Dwelling height is similar to the existing houses on Drynam Green and is therefore not a matter that should be given any negative consideration.
- The site is a brownfield site that is zoned for residential development. The density is appropriate for the site. Recent Board refusals where density was deemed to be too low are noted.
- The area is characterised by houses and apartments of different plot and house widths, building lines and heights, external finishes, number of floors, parking arrangements etc. It would not be possible to create a design that replicates each element of the surrounding buildings. The proposed

development is an appropriate and contemporary design and layout for residentially zoned land and will not negatively affect the visual or residential amenity of existing residents.

- Parking provision is in accordance with the standard in Table 12.8 of the Development Plan. A Layout is submitted in response to the conditions attached by the PA in the notification to grant permission.
- In response to concerns raised in the appeal in relation to the movement of larger vehicles through Drynam Green, the appeal response includes auto-tracked drawings to demonstrate how an existing situation would be improved as larger vehicles could enter and exist Drynam Green via the proposed development from Feltrim Road without reversing.
- Adequate sightlines will be available onto Drynam Green as existing trees and hedging will be removed. The proposed boundary wall at that point will be 900mm high as per the requirements of Fingal County Council, thereby improving available sightlines (photos and 3D images included).
- Open space within the proposed development will be available to residents of Drynam Green, thereby providing a safe play area for children.
- Residents parking on the road in Drynam Green would have the effect of reducing vehicles speeds. The proposed development would not result in an increase in traffic speeds in Drynam Green.
- The response states that the benefits of using the new through route as a 'rat run' would be negated due to the limited distance between the proposed junction and the existing junction of Feltrim Road and Kettles Lane, the availability of right and left turning options at the existing junction, and the potential for obstructions on Drynam Green.
- The applicant is amenable to a condition being attached that gives effect to objectives of the Development Plan in relation to the provision of charging points for electric vehicles.
- The response raises a new issue in relation to a development contribution applied in respect of public open space. A condition of the notification to grant permission imposes a development contribution of €46,995 based on a

calculated shortfall of open space of 800 square metres. The response states that the approved development includes open space provision at a rate that is above 10% of site area. It is stated that details to be agreed prior to commencement of development may alter the level of provision and on this basis, it is requested that the Board attach a condition requiring that any fee due for a shortfall in open space be agreed between the applicant and the Planning Authority after final grant of permission.

6.3. Planning Authority Response

The response of the Planning Authority can be summarised as follows:

- Matters raised in the appeal have been addressed within the assessment.
- The PA remains of the view that the proposed development is in accordance with the proper planning and sustainable development of the area.
- Should permission be granted, the PA requests that conditions no. 7, 12, 29, 30 and 31 are included.

6.4. Observations

None.

6.5. Further Responses

6.5.1. A further response has been received from the appellants. No new issues raised.

6.5.2. The Planning Authority have responded to new issues raised in the applicant's response in relation to the payment of a financial contribution in lieu of open space provision. The response addresses the request to alter condition no. 30 as follows:

- Based on the requirements of Objective DMS57 of the Development Plan, the Planning Authority calculated an occupancy rate of 47.5 persons within the development and on this basis an open space requirement of 0.11857 hectares.

- Planning Authority measure a provision of 0.037 hectares on site and a shortfall of 0.08175 hectares. This calculation takes account of the altered car parking.
- All public open space within the development comprises Class 2 Open Space (areas of less than 0.2 ha as per Table 12.5) and no Class 1 Open Space is provided.
- The submission details a Class 1 requirement of 890.625 square metres (75%) and Class 2 requirement of 296.8 sq. metres (25%) based on an overall requirement of 1187.5
- In calculating the contribution due the submission states that the Class 1 public open space requirement is 817.5sq. metres (i.e. 75% of 1187.5) and accordingly, and in order to ensure the equitable provision of public open space in a hierarchical manner across the County a financial contribution in lieu of the shortfall of Class 1 Public Open Space was required.

7.0 **Assessment**

- Principle of Development
- Traffic and Access
- Density and Design
- Impact on Amenity
- Other

7.1. **Principle of Development**

- 7.1.1. The site is located within the development boundary of Swords and is zoned RS 'Residential' with an objective to 'provide for residential development and protect and improve residential amenity'. The proposed residential development is acceptable in principle under the terms of the zoning objective.

7.2. **Traffic and Access**

- 7.2.1. It is proposed to access the development from the Feltrim Road and to construct an east-west link street from Feltrim Road to a cul-de-sac to the west, which in turn

connects to Kettles Lane to the south. The new street would be 5 metres in width with a footpath on the southern edge.

- 7.2.2. The vehicular access is onto a busy section of the Feltrim Road at a location that is c. 125 metres north of an un-signalised 'T' junction between Feltrim Road and Kettles Lane. The 50 k/h speed limit applies at this location and the road comprises a two-way carriageway with no footpath. Visibility is restricted at present by roadside planting within the appeal site, however, it is proposed to remove the hedge planting and to provide a footpath along the road edge. I consider, having regard to the location of the site within the urban speed zone (50 k/h) that acceptable sightlines can be achieved and that the entrance maintains an adequate separation from the junction to south. The provision of development fronting onto the road edge and a footpath should serve to reduce vehicle speeds along this section of the road.
- 7.2.3. The grounds of appeal argue that the proposed through route would provide a 'rat-run' that would draw traffic into the cul-de-sac serving Drynam Green (24 no. dwellings). The appellants contend that the existing network within Drynam Green is not suitable for additional traffic volumes and that it would impact on safety. The applicant's response argues that the proposed connection provides no benefit for through trips, as any benefit of using the new route as a through route between Feltrim Road and Kettles Lane would be negated by the limited distance to the junction of Feltrim Road and Kettles Lane (c. 125 metres), the availability of right and left turning options at this junction and the possibility of obstructions on Drynam Green. The applicant's response also highlights that the proposed development would allow larger vehicles, such as bin lorries, to enter and exit the area without reversing. A request for further information issued by the Planning Authority sought details of measures to avoid the route being used as a rat run. Revised details received by the Planning Authority at further information stage include 2 no. raised crossings and the provision of street trees along the southern road edge. The turning radii at the entrance was also reduced. I consider that the proposed access route provides enhanced permeability within the urban environment and that the route, due to its indirect nature, would not present as an attractive through route for the wider area. Having regard to the recommendations contained DMURS in relation to the creation of legible and self-regulating street environments, I recommend that a footpath is provided on both sides of the link street with

appropriate tree planting at regular intervals on both sides of the street. This would necessitate the relocation of the proposed swale along the northern road edge.

- 7.2.4. The appellants raise concerns in relation to the extent of car parking and the lack of clarity in relation to the final arrangements. In this regard, I would note that the proposal complies with the provisions set out in Table 12. 8 of the Development Plan with in curtilage parking for dwellings and on-street parking bays for apartment / duplex units. The notification to grant permission (Condition no. 4) has sought revisions to the parking layout in the northern section of the site, through the replacement of perpendicular spaces with parallel spaces. The applicant's response to the appeal includes a layout showing a continuous line of 8 no. spaces along the northern boundary. I consider that the revised layout is acceptable.

7.3. **Density**

- 7.3.1. In relation to density it is argued that the density of the proposed development is excessive. The grounds of appeal state that the density of the proposed development will be 49 units per hectare, however, the provision of 17 no. units on a site of 0.36-hectares would equate to a density of approximately 47 units per hectare. The Sustainable Residential Development in Urban Areas Guidelines, 2009 set out density standards for residential development across a range of settlement types and areas. In the case of 'outer suburban / greenfield sites on the periphery of cities or large towns' the guidelines recommend net densities of 35-50 dwellings per hectare. The proposed development falls within the recommended density range and I consider this to be the relevant standard in this instance, given the sites location in an outer suburban area.

7.4. **Design and Layout – New Issue**

- 7.4.1. The appellants contend that the design of the proposal is at odds with the character of existing and permitted development in the area. In this regard, the applicant's response states that the area is characterised by a mix of houses and apartments of varying designs and that it would not be possible to replicate each element.
- 7.4.2. There is a mix of design styles in the immediate area and the overall layout, block structure and scale of the development is in keeping with the general character of the area. The dwellings are of contemporary design and provide a good interface with the surrounding streets. However, I consider Block A to be of poor architectural

quality. The design fails to respond to the outer suburban context, the prominent and highly visible location or to provide a good interface with the surrounding street edges. In particular, there is a lack of architectural detailing on the prominent side elevations, doorways are concealed and the openings on the front and rear elevations are of an inappropriate scale. In addition, condition no. 3 of the notification to grant permission requires a redesign of the ground floor apartments to provide direct access from living / kitchen areas to private amenity space, with the omission of a bedroom. While I would agree that this amendment is appropriate, the architectural impact of this change is not clear. I consider that the design of the block needs to better reflect its context and to provide a good interface with the surrounding streets and that it would not be possible to address this by way of condition. In the event that the Board is minded to grant permission, I recommend that the apartment block is omitted by condition. I am satisfied that the housing can proceed in the absence of the apartment block and that the density of c. 30.5 dwellings per hectare, while low, would be acceptable given the transitional location. I would also draw the Boards attention to the fact that the applicant can seeking permission for a revised apartment / duplex block that addresses the issues raised. This is a new issue that was not raised by the Planning Authority.

7.5. Height

- 7.5.1. The appellants argue that the height of proposed dwellings will impact on visual amenity. I do not consider any of the proposed buildings to be excessive in height in the context of surrounding development. The 3-storey apartment building is located at the corner of the site and I consider the height to be appropriate and desirable at this location along the Feltrim Road. The dwellings at two storeys with dormer cannot be considered excessive given the predominance of two and three storey dwellings in the immediate vicinity. Furthermore, I note that the dwellings in question are a significant distance from the existing dwellings on Drynam Green, and as such will not give rise to any amenity issues in terms of overlooking and overshadowing. In terms of overshadowing, the blocks in question are a sufficient distance from the existing dwellings so as to ensure that little or no overshadowing will take place. While the Shadow Studies received by the Planning Authority at further information stage indicate that some overshadowing may occur during daytime periods in the

mid-winter period, this is to be expected in a suburban built-up area and does not constitute reasonable grounds for refusing planning permission.

7.6. Impact on Amenity

- 7.6.1. Having regard to the nature and scale of the proposed development, the pattern of development in the area and the set back from adjacent residential properties, I would agree with the view of the Planning Authority, that the proposed development would not seriously injure the residential amenities of property in the vicinity and subject to the omission of the apartment block would not be injurious to the visual amenity of the area.

7.7. Public Open Space

- 7.7.1. The applicant's response to the grounds of appeal has requested the Board to amend condition no. 30 of the notification to grant permission. This condition states that a financial contribution in the sum of €46,995 be paid in lieu of open space provision based on a shortfall of 800 square metres. The applicant contends that the quantum of units and open space will not be definite until such time as a final grant of permission is issued and requests that the Board attach a general condition allowing for the contribution to be agreed after final grant of permission.
- 7.7.2. Under the terms of Section 9(b) of the Fingal Development Contribution Scheme 2016-2020, the Council has discretion to apply a financial contribution in circumstances where the open space requirement of the Development Plan is not met.
- 7.7.3. Objectives PM52 and DMS57 of the Development Plan require public open space provision at a rate of 2.5 hectares per 1000 population, based on an assumed occupancy rate of 3.5 persons for dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. Objective DMS57B requires a minimum of 10% of a development site to be designated for use as public open space and states that the Council has the discretion to accept a financial contribution in lieu of remaining open space requirement 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 Table 12.5. 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. Objective DMS60 is to require the monetary value in lieu of open spaces to be in line with the Fingal County Council Development Contribution Scheme.

7.7.4. There is no stated objection in relation to the payment of a development contribution in respect of a shortfall in open space provision, although I would note that the applicant's response refers to onsite provision of 464 square metres, while the Planning Authority refers to provision of 370 square metres. The Planning Authority states that, based on the standards set out in Objective DMS 57 of the Development Plan, the development as amended by conditions of the notification to grant permission has an occupancy rate of 47.5 persons and an open space requirement of 0.1187 hectares. I would concur with this calculation. I draw the Boards attention to the recommendation to omit Block A, as set out in Section 7.2 above, which would reduce the occupancy rate to 38.5 persons, reduce the open space requirement to 0.9625 hectares and increase open space provision within the site. On this basis, I would concur with the request of the applicant. There is potential for open space provision to change as a result of conditions of the permission. On this basis, I consider that a condition requiring the payment of an unspecified financial contribution in lieu of the open space provision, in accordance with the terms of the Fingal Development Contribution Scheme and the Development Plan, is appropriate in this instance. In default of an agreement in relation to the financial contribution, the matter can be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

7.7.5. In terms of the application of the Scheme, I would note that the submission received from the Planning Authority on 12th February 2018 appears to suggest that there is a requirement to provide 75% Class 1 and 25% Class 2 open space within each development site and that a financial contribution can be applied where a shortfall

arises in respect of either Class. I would note that the application of the terms of the Development Contribution Scheme and the Development Plan in respect of open space provision has been assessed previously by the Board under appeal references PL06F.247188, PL06F.249179 and PL06F.247032. The Fingal Development Contribution Scheme states that “the Fingal *Development Plan provides the discretion to the Council to determine a financial contribution in lieu of all or part of the open space requirement for a particular development*”. On this basis I consider that a financial contribution only arises in circumstances where the total quantum of open space provided is below the total quantum specified in the Development Plan, irrespective of the Classes of open space provided. While Section 3.5 of the Development Plan states that ‘*in general open space shall be provided at a rate of 75% Class 1 and 25% Class 2*’ there is no specific policy or objective to this effect. The principal Development Plan Objectives relating to the provision of public open space are DMS57, DMS57A and DMS57B. It is clear, from my reading of these Objectives, that the issue of Class 1 and Class 2 public open space only arises when the Planning Authority is calculating a contribution in respect of a shortfall in the total quantum of open space provided, and that the contribution should be calculated on the basis of 75% Class 1 and 25% Class 2.

7.7.6. As with previous ABP assessments on this issue, I consider that there is no specific requirement in the Fingal Development Plan 2017-2023 to provide Class 1 open space as part of every development. Where a shortfall in the overall quantum of open space does arise, the financial contribution in lieu of the shortfall (only) should be calculated on the basis of 75% Class 1 and 25% Class 2 based on the rates set out in the Development Contribution Scheme.

7.8. **Other**

7.8.1. The grounds of the third party appeal raise a perceived procedural issue in relation to the plans and particulars received by the Planning Authority at further information stage, stating that a new application may have been warranted. The revised proposals were deemed to constitute significant further information and were re-advertised in accordance with the provisions of the Planning and Development Regulations. I consider that the procedures followed are in accordance with the provisions of the Planning and Development Regulations and that the appellant’s

rights in respect of submitting observations or appealing the decision of the Planning Authority to An Bord Pleanála have not been compromised or prejudiced in any way.

7.8.2. The drawings and details submitted with the application and in response to the request for additional information, are considered to satisfactorily address surface water drainage, foul drainage and water supply. I would note that the revised footpath arrangements recommended in Section 7.2 above would impact on the proposed drainage layout and require the relocation of the proposed Swale. I consider that revised details can be agreed with the Planning Authority prior to the commencement of development.

7.8.3. The grounds of appeal argue that the proposed development is contrary to policies and provisions contained in the Fingal County Development Plan 2017-2023 in relation to electric charging points and disabled car parking. The development does not exceed the thresholds contained in the Development Plan and I do not consider the provision of charging points or disabled car parking bays necessary in this instance.

7.9. **Appropriate Assessment**

7.9.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, in particular its location in a serviced urban area, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. I recommend that permission is granted subject to the conditions set out below.

9.0 **Reasons and Considerations**

9.1.1. Having regard to the zoning objectives for the area and the provisions of the Fingal County Development Plan 2017-2023; the location of the site within the development boundary of Swords and the pattern, character and appearance of existing and permitted development in the area it is considered that the proposed development, subject to compliance with the conditions set out below, would constitute an

appropriate development at this location which would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of its urban design and impact on protected structures and designated conservation areas that are proximate to the appeal site. 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 as amended by the further plans and particulars submitted on the 4th day of September 2017 and by the further plans and particulars received by An Bord Pleanála on the 6th day of December 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 proposed development shall be amended as follows:
 - (a) Block A and the associated car parking bays, bin stores and cycle parking areas shall be omitted from the development. The lands shall be integrated into the development as public open space.
 - (b) A footpath of not less than 1.8 metres in width shall be provided along the northern edge of the proposed east-west street with street tree planting at appropriate intervals. Revised details shall be provided for the bio retention swale along the southern edge of the open space area.

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 visual amenity and residential amenity.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- A plan to scale of not less than 1:500 showing:
 - (i) Existing trees, hedgerows, specifying which are proposed for retention as features of the site landscaping,
 - (ii) The measures to be put in place for the protection of these landscape features during the construction period,
 - (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species,
 - (iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels,
 - (v) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment,
 - (vi) Specifications for boundary treatments to include boundary wall and railings,
 - (vii) A timescale for implementation including details of phasing.

All planting shall be adequately protected from damage until established.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

4. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed

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

Reason: To ensure the satisfactory completion and maintenance of this development.

5. Proposals for a 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 street signs and house numbers, shall be provided in accordance with the agreed scheme. No advertisements / marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

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

Reason: In the interest of visual amenity.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water and provision for foul sewer connections within the site, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. The road network serving the proposed development including junctions, footpaths, raised crossings, kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

9. Public lighting shall be provided in accordance with a scheme, details of 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.

10. 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.

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

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. Prior to commencement of development, the developer shall submit a construction and demolition waste management plan to the planning authority for agreement prepared in accordance with the Best Practice Guidelines on the Preparation of Waste Management for Construction and Demolition

Projects published by the Department of the Environment, Heritage and Local Government in July 2006. This shall include details of wastes to be generated during site clearance and construction phases and details of the methods and locations to be employed for the prevention, minimization, recovery and disposal of this material in accordance with the provisions of the Waste Management Plan covering the Dublin Region.

Reason: In the interests of orderly development and sustainable waste management.

14. A mitigation strategy shall be put in place for the protection of bats and implemented as part of the development.

Reason: In the interest of wildlife protection.

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. 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.

17. The developer shall pay to the planning authority a financial contribution in lieu of the public open space shortfall that arises based on the standards set out in Objectives DMS57 and Objective DMS57B of the Development Plan and 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.

18. 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.

Karen Kenny
Planning Inspector

21st February 2018