



An  
Bord  
Pleanála

## Inspector's Report ABP-301082-18

### Development

Demolition of existing dwelling and sheds and construction of replacement dormer dwelling and 5no. contemporary dwellings at the rear. Alterations to vehicular entrances provision of car parking and all ancillary works.

### Location

Saint Anthony's, 51 Dublin Road, Swords, Co. Dublin.

### Planning Authority

Fingal County Council

### Planning Authority Reg. Ref.

F17A/0734

### Applicant(s)

LDC Developments Ltd

### Type of Application

Permission

### Planning Authority Decision

Refusal

### Type of Appeal

First Party

### Appellant(s)

LDC Developments Ltd

### Observer(s)

Pauline Lawrence  
Bernadette & Tahar Belkebla  
Alex & Anne Brennan

**Date of Site Inspection**

26<sup>th</sup> of June 2018

**Inspector**

Angela Brereton

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## 1.0 Site Location and Description

- 1.1. The application site is located on the eastern side of the Dublin Road (R836), just north of the Pinnock Hill Roundabout (R125/R132/R836), on the southern side of Swords. It is a busy heavily trafficked area. Vehicular access is via the northern portion of the site from the busy R836. There is currently a separate pedestrian gate. While there is limited on-site parking, there is roadside parking which was well parked on the day of my site visit.
- 1.2. The frontage of the site narrows to the wider portion at the rear. Currently the site forms the elongated (the site extends some 150m in length) rear garden area of the detached bungalow no.51 Dublin Road. There are a number of unoccupied sheds/garages in the rear garden area. The rear garden area is very overgrown and the glasshouse referred to on the drawings has been removed. There is a high Leyland cypress hedge along the northern and southern boundaries of the wider rear garden area.
- 1.3. The site is located in a mature residential area characterised by mainly older c. 1940's /1950's single storey bungalow type dwellings on this side of the road. The bungalows adjoining either side of the site also have longer rear gardens. There are a number of cul-de-sacs to the two storey residential Carlton Court including a green area to the rear of the site.
- 1.4. Opposite no.51 Dublin Road, is a three-storey apartment block, known as Milton Hall, which contains 36no. apartments. Less than 100m north of the site is Colaiste Cholim Secondary School and less than 100m south is a Lidl. Swords Town Centre including The Pavilions Shopping Centre is to the north.

## 2.0 Proposed Development

This proposal seeks:

- (i) Demolition of existing single storey detached dwelling, 4 no sheds/ancillary residential storage buildings and glass house;
- (ii) Construction of replacement detached dormer dwelling on footprint of St

Anthony's facing the Dublin Road;

(iii) Construction of 5 no. two-storey, three bedroom contemporary dwellings to rear(east) of site;

(iv) Removal of existing southern vehicular entrance and improvement and upgrade of existing northern vehicular entrance;

(v) Provision of access laneway and pedestrian footpath via upgraded northern vehicular entrance to serve replacement dwelling and 5 no. new dwellings to rear (east) of site and provision of turning bay and pedestrian circulation zone;

(vi) Provision of 10 no. parking spaces and 10 no. bicycle parking spaces to serve 5 no. proposed dwellings to rear (east) of site;

(vii) Provision of private amenity space for each dwelling;

(viii) Associated boundary treatment, landscaping, SUDS drainage and all other ancillary development works necessary to facilitate the development.

- 2.1. Hughes Planning & Development Consultants have submitted a Planning Report with the application which provides a description, rationale and sets out a justification for the proposed development.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

On the 6<sup>th</sup> of February 2018, Fingal County Council refused permission for the proposed development for 3no. reasons. This includes in summary would materially contravene Objectives DMS39 and DMS44 of the Fingal CDP; the proposed length of the access road would seriously injure residential amenity of property in the vicinity; would constitute a haphazard piecemeal form of infill development; would set an undesirable precedent contrary to the proper planning and sustainable development of the area.

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

##### Planner's Report

This has regard to the locational context of the site, planning history and policy and to the submissions made and the interdepartmental reports received. They conclude

that having regard to the established character and pattern of development in the area, the proposal would be contrary to a number of Development Plan Objectives including PM44, PM45, DMS39 and DMS44. They considered that the proposal would result in piecemeal haphazard development which would negatively impact on the residential amenity of existing residents in the surrounding area. While they note potential to develop this underutilised site, they provided that the current proposal would set an undesirable precedent for other similar backland developments, necessitating the construction of an extensive access road in order to access the 5no. dwellings to the rear of the site. They considered that a comprehensive plan led approach for these backland sites would represent a more desirable and sustainable design solution than the current proposal.

### **3.3. Other Technical Reports**

#### Water Services Section

They considered that insufficient information has been submitted relative to surface water drainage and recommended that further information be sought relative to a number of issues.

#### Transportation Section

They are concerned that the lack of provision of on-site parking and the layout of the car parking and the proposed residential turning bay/shared surface area would not be considered acceptable. They recommended that F.I be sought on a number of issues relative to car parking layout, pedestrian facilities, manoeuvring and adequate turning area etc.

#### Environmental Health Officer

They had no objections subject to a number of conditions including relative to construction related issues.

### **3.4. Prescribed Bodies**

#### Irish Water

They had a number of concerns relative to drainage connections and recommended that further information be requested on a number of issues.

### 3.5. Third Party Observations

These have been received from local residents some of whom are the subsequent Observers. These submissions are noted and are considered further in the context of the Observations below.

## 4.0 Planning History

There is no recent planning history on record pertaining to the subject site. The Fingal Planners Report and The Planning Report submitted on behalf of the applicant details the Planning History of the site and the surrounding area.

The following are noted on the opposite side of the road within the MC zoning:

- Reg.Ref. F99A/1171 – Permission granted for the construction of 36no. 1 and 2 bed apartments in a three-storey over basement carpark.
- Reg.Ref. F01A/0793 – Permission granted for modifications to this permission.
- F14A/0492 -PL06F.244562 – Permission granted subject to conditions by the Board for the construction of a Lidl supermarket. This is on the opposite side of the road to the south west of the subject site.

### *Adjacent Property*

- Reg.Ref.F07B/0332 – Permission sought to build a rear extension, part 1 storey and part dormer construction, of living room and bedrooms, with alterations to the existing house. Permission was granted following additional information for the proposal, with the dormer omitted for no.47 Dublin Road to the north of the site.
- Reg.Ref.F16A/0011 – Permission granted for a single storey rear extension, refurbishment and alterations to existing dwelling; widening of the existing entrance gate and all associated site works at No.55 Dublin Road, Swords.

### *Backland Development*



The following are noted (aerial photographs are included) in relative proximity to the subject site in The Planning Report submitted with the application:

- Reg.Ref. F96A/0329 – Planning permission was granted for a dormer bungalow – Site adjoining Nos.162 and 164 Carlton Court.
- Reg.Ref.F02A/1510 – Planning permission granted for 2no. 4 bed bungalows to the rear of Nos. 59 and 61 Dublin Road.
- Reg.Ref.F15A/0081 – Permission granted for a new single storey family unit to the side of the existing house and associated site works – No.194 Carlton Court Swords.
- Reg.Ref.F14A/0298 – Permission granted for the demolition of existing dwelling and associated out buildings and the construction of 27no. units, accessed via a new access road from Brackenstown Road. This was subsequently upheld on appeal – Ref. PL06F.244368 relates.

## 5.0 Policy Context

### 5.1. National Guidelines

#### Project Ireland 2040 – National Planning Framework

This aims to provide a broad ranging guide to development and investment over the coming years and seeks to empower national, regional and spatial planning in economic, environmental and social terms to 2040. In conjunction the National Development Plan seeks to provide a ten-year strategy for public investment.

They seek to deliver a greater proportion of residential development within existing built-up areas of cities, towns and villages to provide urban and rural regeneration.

*The target is for at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites.*

#### Section 28 Ministerial Guidelines

The following list of section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Regional Planning Guidelines for the Greater Dublin Area 2010-2022
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) 2009
- Design Manual for Urban Roads and Streets 2013
- The Planning System and Flood Risk Management 2009 (including the associated Technical Appendices).

## 5.2. Fingal County Development Plan 2017-2023

### Strategic Vision

Table 2.1 of the Plan includes Swords as Level 2 in the Regional Planning Guidelines Settlement Strategy. The description provides these are strong active urban places within metropolitan area with strong transport links.

It is an Objective to: *Promote and facilitate the long-term consolidation and growth of the County town of Swords as provided for in the Swords Strategic Vision 2035.*

Section 4.2 refers to the Metropolitan Area of Swords, the vision is: *'To promote and facilitate the sustainable development of Swords Town as a vibrant consolidated major town with a thriving economy; an integrated public transport network; an attractive and highly accessible built environment with the highest standards of housing, employment, services, recreational amenities and community facilities.'*

Chapter 11 provides the Land Use Zoning Objectives

The site is zoned RS Residential where the Objective seeks to: *Provide for residential development and protect and improve residential amenity.*

The vision seeks to: *Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.*

Chapter 12 provides the Development Management Standards

Section 12.3 refers to High Quality Urban Design and includes regard to building lines. Section 12.4 refers to Design Criteria for Residential Development and Residential Density. Tables 12.1 and 12.3 (houses) refer to minimum room sizes, dimensions and overall floor area when designing residential accommodation.

Objectives DMS24 and DMS27 apply. Objective DMS28 provides for a separation distance of a minimum of 22 metres between directly opposing rear first floor windows. Objective DMS29 seeks to ensure at least 2.3m between side walls of properties. Objective DMS30 refers to Daylight, Sunlight and Overshadowing. Objectives DMS39 and DMS40 provide the criteria for infill development and corner sites. Objectives DMS87 and DMS88 refer to minimum private open space for dwelling houses.

Also of note is Objective PM44 which seeks to encourage and promote the sustainable development of underutilised infill, corner and backland sites.

## **6.0 The Appeal**

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

Hughes Planning & Development Consultants have submitted a First Party Appeal on behalf of the Applicants. This report sets out the planning rationale and justification for the proposed development including an assessment of the proposed development having regard to the Fingal CDP 2017-2023. The grounds of appeal include the following:

- The proposal for an infill development on residentially zoned, serviced, land supports the consolidation of Fingal and Swords in particular, and is compliant with Planning Policy and Objectives.
- It is important to note that the application site once operated as a commercial garage and vehicles used this accessway to access the rear of the site. Appendix A includes a letter from the Council in this regard. This laneway was subject to noise relative to these commercial activities in the past.
- They have submitted as an alternative option, revised drawings which omit the replacement dwelling to the front (west) of the site and show that the access laneway does not directly adjoin either of the neighbouring boundaries. In addition to this the 5no. dwellings at the rear have been reduced by 1m in height. In this case the existing bungalow would be removed.

- The proposed development is compliant with the various quantitative and qualitative standards of the Fingal CDP which encourage the provision of suitability designed dwellings subject to the protection of adjacent residential amenities and other normal planning criteria.
- This proposal does not lead to undue overlooking or lead to overshadowing. There is ample separation distances between properties. They are willing to accept a condition relative to passive surveillance.
- It is also consistent with Ministerial Guidelines including the *Project Ireland 2040-National Planning Framework*, the *RPG for the Greater Dublin Area 2010-2022* and the *Urban Design Manual – A Best Practice Guide 2009*.
- Higher densities should be achieved while preserving good quality, private residential amenity and compact urban form making for a more efficient use of land.
- They provide that car and bicycle parking standards have been met and note the availability of public transport in the area.
- They provide that the proposed development is in accordance with the proper planning and sustainable development of the area and that as such permission should be granted in this instance.

## 6.2. Planning Authority Response

They note the First Party grounds of appeal and make additional comments to include the following:

- While they note the reference to commercial activity on site by the appellant, no record has been found to date of permission for such a development; nor does it mean that such activity had the benefit of planning permission. They note that the house was for sale for some time and the activity on site may have ceased operation in advance of the sale of this house/site.
- While they agree that appropriate infill development is to be encouraged, the proposed development and revised plans do not address Objectives DMS39 and DMS44 of the Fingal CDP 2017-2023 and do not provide for a suitably high quality of infill development in this location. The proposed development

will result in a haphazard, piecemeal form of infill development that does not have sufficient regard to adjoining sites.

- They request the Board to refuse permission. In the event that this appeal is successful they request that provision be made in the determination for applying a financial contribution in accordance with the Council's Section 48 Development Contributions Scheme.

### 6.3. Observations

Three separate Observations have been received from adjoining residents:

- Pauline Lawrence
- Bernadette & Tahar Belkebla
- Alex & Anne Brennan

As these raise similar concerns, for convenience they are grouped together as follows:

#### Impact on the Character and Amenities of the Area

- This is one of 12 similar style bungalows which were built in the late 1940's/early 1950's on what was then the main Dublin to Belfast Road. The character of these bungalows should be preserved.
- The proposed replacement house would be out of character with the area and would contravene Objective DMS44 of the Fingal CDP which seeks to protect such areas.
- Contrary to Objective PM41 of the Fingal CDP if this development is approved, amenities for existing residents will be compromised.
- The alternative option where the existing house is demolished but not replaced would equally detract from the uniformity of the existing street-scape.
- The proposed dormer window in the replacement house would cause overlooking and loss of privacy.
- Overlooking and loss of privacy from the proposed new dwellings to the rear garden areas of the adjoining properties, facing the Dublin Road.

### Boundary issues

- The issue of a shared boundary wall between no. 51 and 53 Dublin Road has not been addressed in this application – concerns about trespass, privacy and overlooking.
- The demolition of the garage may cause damage to the site of No.53.
- The boundary between the site and No. 47 Dublin Road is incorrectly shown.
- There are also concerns relative to negative impact of the boundary wall between No.51 and No.49 Dublin Road.
- The proposed raising of the roadside frontage boundary wall would impair visibility and be out of character with adjoining properties.
- The application should include who will be responsible for the boundary walls. Taking in charge drawings have not been submitted.

### Access issues

- The location and length of the proposed laneway access including footpath will have a detrimental impact on adjoining properties – noise, anti-social behaviour, loss of privacy etc.
- The previous owner carried out a small-scale car mechanic activity. This was a one-man operation and disturbance to neighbouring properties was minimal and not comparable with the proposed development.
- The new access road and footpath would introduce activity and noise into a relatively undisturbed area. They also have concerns about impact on safety and light pollution.
- Concerns of damage due to construction works and access for heavy machinery on-site.

### Precedent

- The proposed development does not respect the local street pattern, would set an undesirable precedent and would be premature. A more consolidated solution could be found with access via Carlton Court at the rear.

## 7.0 Assessment

### 7.1. Principle of Development and Planning Policy

- 7.1.1. The importance of Swords as a Metropolitan area is noted in the Fingal CDP 2017-2023. Objective SS12 seeks to: *Promote the Metropolitan Consolidation Towns of Swords and Blanchardstown as Fingal's primary growth centres for residential development in line with the County's Settlement Hierarchy.*
- 7.1.2. The site while proximate to is not within Swords Town Centre land use zoning, rather it is within the established residential zoning 'RS' where the objective is to: *Provide for residential development and protect and improve residential amenity.* Therefore, residential development is acceptable in principle within this zoning. Regard must also be had to the Vision which seeks to: *Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.* Objectives PM44 and PM45 note that a balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill and this includes backland development. They also provide that the use of contemporary and innovative design solutions will be considered for this type of development.
- 7.1.3. The First Party consider that the proposal will provide a contemporary infill development that will make a more efficient use of residentially zoned serviced land and will not seriously injure the amenities of adjacent residential properties in the vicinity of the application site and wholly complies with the relevant development standards thereby constituting proper planning and sustainable development. Note must be had of Objective PM41 which seeks to: *Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.*
- 7.1.4. The Observers consider that the scale, extent and design of the proposal to build 5no. additional properties at the rear of this property, including the length of the proposed access laneway is injurious to the residential amenity of adjoining properties. They are concerned about impact on privacy, overlooking, overshadowing and access for vehicular traffic. They also submit that the proposed

development would be entirely out of character with the area to the detriment of the local environment and that it would set an undesirable precedent for such backland development. These issues having regard to the proper planning and sustainable development of the area and the Council's reasons for refusal are discussed further in the context of this Assessment below.

## 7.2. Material Contravention

- 7.2.1. It is noted that the Council's first reason for refusal considers that the proposal would be materially contrary to Objectives DMS39 and DMS44. The former provides: *New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.* The latter seeks to: *Protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character.*
- 7.2.2. Section 34(6) of the Planning and Development Act 2000 sets out the procedure under which a planning authority may decide to grant permission for such a development. Section 37(2) of the 2000 Act provides the constrained circumstances in which the Board may grant permission for a material contravention. These include whether the development is of strategic or national importance, where the development should have been granted having regard to regional planning guidelines and policy for the area etc., where there are conflicting objectives in the Development Plan or they are not clearly stated, or permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the Plan.
- 7.2.3. In this instance the proposed development is clearly not of strategic or national importance, there is no policy or guidelines advising that such a development should be permitted in this urban area. However, regard must be had to the impact on the pattern of development in the area and precedent and this is discussed further in the context of this Assessment below.



### 7.3. Justification for the Proposed Development

- 7.3.1. Regard is had to increasing the density of this site adjacent to Swords Town Centre. The Planning Report submitted with the application notes that Swords is located adjacent to Dublin Airport, and benefits from direct links to the national road network (M1 and M50) and the Dublin/Belfast economic corridor. Main Street is located approx.550m north of the application site, comprising small traditional units along both sides of the road. They note that permission was granted in the late 1990's for a three storey apartment block on the opposite side of the road and consider that this demonstrates that it is acceptable to grant permission for an intensification of residential use in the area. They provide that the proposal accords with planning policy and Residential Standards. While regard is had to these issues, it is also noted that the site is not located within the Town Centre land use zoning (as is the apartment block) rather in the residential zoning.
- 7.3.2. They have regard to the planning history of the area and provide details of such including aerial photographs showing the locations of the sites and note that there is some precedent for additional housing units to the rear of the sites. They note that the residential density in this area is lower than would be expected proximate to Swords Town Centre. The current application is proposing a density of c.23 units per hectare which is similar to the density of the surrounding area c.24units per hectare. They contend that the proposal preserves the character of the area surrounding the application site by being of appropriate scale and density.
- 7.3.3. It is provided that the current application, in view of the length of the rear garden area, will have adequate separation distances from adjoining dwellings and will therefore have no undue negative impact in respect of overlooking or loss of sunlight or privacy to existing dwellings. Also, that the replacement dwelling on the footprint of No.51 Dublin Road will respect the streetscape and 5no. dwellings proposed at the rear will not impact on the streetscape. They note that the site is within the 50km/h speed limit and consider that the proposal will not impact adversely on traffic volumes in the area. It is also of note that in their Appeal Statement includes revised plans for an alternative proposal, which is discussed separately in the Design and Layout Section below.

#### **7.4. Regard to Demolition of Existing Buildings**

- 7.4.1. The application seeks to demolish the existing single storey dwelling (101sq.m) and sheds/garages and glass house at the rear. The application form provides that the g.f.s of the existing buildings is 432.5sq.m all of which are to be demolished to make way for the proposed scheme. The existing bungalow is more traditional in form and as noted on site is similar to a number of other such 1940s/1950s bungalows along this area of the Dublin Road. While it is not a protected structure or in an Architectural Conservation Area it does retain the character and pattern of development of such bungalows in the area. If this habitable house, is to be demolished this would be subject to its replacement with a dwelling that would be in character with the other dwellings with frontage to the Dublin Road. I note the glasshouse has been demolished and I would have no objection to the demolition of the out buildings all in the rear garden area.

#### **7.5. Design and Layout**

- 7.5.1. It is provided that the proposed new development which is to consist of a replacement house to the site frontage and 5no. dwelling units at the rear of the site and will have a total g.f.s. of 623.53sq.m. It is to be more contemporary in form than the adjacent houses i.e the bungalows facing the Dublin Road or the two storey semi-detached houses in Carlton Court to the rear. The design and layout of the proposed town houses seeks to make more efficient and maximum usage of the site including the rear garden area.
- 7.5.2. As noted the replacement dwelling (house type B refers) will have a similar but narrower footprint to that of the existing house and that the g.f.s of this more contemporary two bedroomed dormer dwelling now proposed be c.95.53sq.m. and c.6m to ridge height. It is proposed that this be a dormer dwelling with the master bedroom at first floor level. It is noted that the front projection element is to be similar to the building line of Saint Philomena's No. 53 Dublin Road to the south rather than the set back of Corrig No.49 to the north. As shown on the Site Layout Plan the replacement dwelling is to be narrower in width and closer to the southern site boundary than the existing dwelling to allow access to the proposed 5no. town house

type dwellings at the rear. The proposed West Contextual Elevation drawing shows the appearance from the Dublin Road.

- 7.5.3. The proposal also includes the construction of 5 no. backland dwellings to the rear (east) of the site, a semi-detached pair on one side of the cul-de-sac (house type C) and a terrace of three on the opposite side (house type A - easternmost part of the site). It is proposed that these all be two storey with large box dormers to the front elevations, shown c. 9.3m to ridge height. Both house types A and C are shown as 3 bed roomed with living accommodation on ground floor level. The drawings include Architectural impressions showing the juxtaposition of the single house at street frontage and 5no. units proposed in the wider eastern section of the site.
- 7.5.4. Section 7.0 of the Planning Report submitted with the application provides a breakdown in Table 1.0 to show that the proposed development complies with and exceeds Table 12.1 of the Fingal CDP relative to minimum g.f.a per dwelling type and room sizes. In this respect it is noted that house type A has a minimum g.f.a of 105.6sq.m, house type B, 2 bed dormer - 95.53sq.m and house type C is 105.6sq.m.
- 7.5.5. Proposed external finishes to these contemporary dwellings include render and zinc cladding for the roof and box dormers and pressed metal window cills. Details of changes to the existing vehicular access and to provide for parking and bin storage for the proposed dwellings at the rear of the site are noted below. A refuse bin storage area is to be provided on the application site to serve the 5no. proposed dwellings to the rear of No.51 Dublin Road. It is noted that this is shown adjacent to the rear garden area of No.162 Carlton Court, which would not be the best location for that property.

## 7.6. Open Space

- 7.6.1. It is noted that the 5no. proposed additional dwellings will all have private open space behind the front building line of each dwelling. These gardens will range in area from 60.7sq.m to 88.2sq.m. Regard is had to Objective DMS87 which seeks to ensure a minimum open space provision for dwelling houses (exclusive of carparking area) and includes: *3 bedroom houses or less to have a minimum of 60sq.m of private open space located behind the front building line of the house.*

- 7.6.2. It is also noted that the replacement dwelling will have 57.7m of private open space to the rear of the front building line. They provide that this is compliant with Objective DMS88 which provides: *Allow a reduced standard of private open space for 1 and 2 bedroom townhouses only in circumstances where a particular design solution is required such as to develop small infill/corner sites. In no instance will the provision of less than 48 sq m of private open space be accepted per house.* However, it is noted that the rear garden area of this house is small and narrow and tapers to less than 3m in width. This is to allow for the configuration of the access road to the housing at the rear of the site.
- 7.6.3. It is considered that there is a need for passive surveillance along the northern boundary of this house with the proposed access lane. Objective DMS57A requires a minimum of 10% of a proposed development site area be designated for use as public open space. It is noted that such open space has not been provided on site.

## 7.7. Impact on Residential Amenities

- 7.7.1. Regard is had to separation distances. Objective DMS28 provides that a minimum separation distance of 22m is required between directly opposing first floor windows and Objective DMS29 seeks to: *Ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units.* In this respect it is noted that the separation distance of 22m is generally achieved. However, the proposed houses are less than 2.3m from the site boundaries. While it is contended that the proposed separation distances are acceptable given the established setting of the application site and the orientation of the neighbouring dwellings in proximity to the application site, I would be concerned that the proposed houses are very close to the site boundaries and would appear crammed into the site.
- 7.7.2. The Observer to the south is concerned that the proposed rear dormer on the east elevation will overlook their property and negatively impact on their residential amenity. Nos 49 and 47 to the north are concerned about the impact and loss of privacy to their rear garden areas. There are also concerns that the proposal to provide the 5no. houses in the rear garden area will have an adverse impact on the proximate houses in the cul de sac developments of Carlton Court to the north and south east of the site. It is noted that all the landscaping along the rear and side

boundaries will be removed to facilitate the scheme. The proposed houses at c.9.3m or 8.3m to ridge height (as provided in the alternative proposal) will be considerably higher than the houses in Carlton Court which are approx. 7.4m. in height.

- 7.7.3. Objective DMS30 seeks to: *Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.* The applicants consider that the positioning and layout of the proposed development complies with this Objective and that the dwellings are orientated to maximise solar gain. They note that the dwellings proposed on the eastern portion of the site will be located north of the dwellings on Carlton Court and therefore, will not cause any overshadowing to these dwellings. Also, that all windows on the proposed dwellings to the rear (east) of the site face east and west. This is to ensure that no overlooking occurs to adjacent properties. They provide that the proposed development has been designed so that it will have no adverse impact with regard to daylight, sunlight and overshadowing. They conclude that the dwellings are of a modest scale and have been designed to meet minimum standards as per the housing guidelines, including room sizes, private open space, aspect and storage.

## 7.8. Access and Parking

- 7.8.1. The Site Layout Plan shows the location of the proposed access from the Dublin road and internal access road to the proposed development and on-site parking at the rear. It is proposed to remove the southern vehicular entrance to the application site and upgrade the northern vehicular entrance in order to provide access to the proposed 5no. dwellings. Figure 16.0 of the Planning Report shows a *Street view of application site, showing southern entrance to be removed and northern entrance to be upgraded and improved.* It is provided that the proposed development in this application will result in 5no. additional dwellings in the area, thereby not significantly increasing the volume of traffic in the area. Also, that adequate sight distances are available in both directions, taking into account the 50km/h speed limit.
- 7.8.2. An access laneway in excess of 100m in length is to be provided from this upgraded entrance to the 5no. additional dwellings and access is to be provided to the replacement dwelling off this laneway. A pedestrian footpath is also to be provided

on the northern section of this laneway. It is provided that the laneway will have a width of 5.5m and a 1.8m wide pedestrian footpath will be provided on the northern section of the laneway. The laneway and footpath will both be finished with permeable paving. The end of the laneway on the eastern section of the site will comprise a residential turning bay to allow vehicles, including emergency vehicles, to exit the site.

- 7.8.3. 10no. carparking spaces and 10no. bicycle spaces are to be provided to serve the 5no. proposed dwellings at the rear. It is noted that the replacement dwelling will have 2no. spaces. Table 12.8 of the Fingal CDP provides the Car Parking Standards. This includes that for a house 1-2 bedrooms 1-2 spaces are required and for 3 or more bedrooms 2 spaces are required. As per this table these spaces are to be *Within the curtilage*, which is not achievable in the current layout. The Transportation Planning Section is concerned that the five units at the rear would require on-site parking in accordance with standards. They also request that a suitable turning area be provided for vehicles and note that a 6m manoeuvring space for all perpendicular car parking is required. They also consider that the footpath should be continued along the internal access road to the 5no. houses at the rear. They recommend that an adequate turning area be provided that does not include a shared surface.

## 7.9. **Alternative Proposal**

- 7.9.1. The First Party Appeal Statement has included an Alternative Option for Consideration by the Board. The revised design does not propose to replace No.51 Dublin Road, rather to demolish the bungalow to make way for an access laneway to the 5no. houses to the rear of the site. The advantage of this is that as shown it would be centrally placed and would not adjoin the boundaries of the existing residential properties. I would be opposed to this in that it would mean that there would be no frontage development to the Dublin Road.
- 7.9.2. The revised plans show that the 5no. dwellings to the rear of the site have also been reduced in height which seeks to address the Council's concern about height. They provide that this reduction in height would reduce any potential undue impact on the surrounding area. Previously house type A (3no. dwellings had a ridge height of 9.3m and this has been reduced to 8.3m in the revised design. House Type C (2no.

dwellings) also has a ridge height of 9.3m and this would reduce the height to 8.3m. All of the 5no. dwellings are to have a flat roof, sloping slightly from the front to the rear. In the case of House Type A, the roof will slope from west to east and for House Type C, the roof will slope from east to west. Drawings have been included showing the revisions to the proposed house types. While this will lower the profile, it is not considered that the proposed design would enhance the character of the area.

7.9.3. It is noted that there are no changes to the parking area and that the proposed dwellings will not have on-site parking available. The cul-de-sac and turning area have not been altered. It is not considered that the concerns of the Council's Transportation Planning Section have been addressed in the internal layout of the revised scheme. If the Board decides to permit I would not recommend that the revised scheme be implemented.

#### **7.10. Impact on the Character and Amenities of the Area**

7.10.1. The First Party provides that the proposed development has been designed and scaled to avoid appearing visually obtrusive, whilst ensuring that in view of orientation and separation distances that there is no dis-amenity to existing properties by way of overshadowing or overlooking. Also, that it will provide a high quality residential development that would contribute to the urban form of Swords while protecting the residential amenity of nearby properties and not being detrimental to the character or visual appearance of the area.

7.10.2. Figure 14 of the Planning Report shows how the proposed development will appear more crammed into the rear of the site, than the scale of adjoining developments in both the newer estate type development in Carlton Court to the south and having regard to the bungalows in the vicinity with frontage onto the Dublin Road. It is also noted that there is a requirement to provide 10% of a proposed development as public open space and this has not been provided in the layout submitted. A boundary treatment and landscape plan has not been submitted with this application.

7.10.3. There is concern that the design of the scheme is excessive and does not correspond to the Best Practice Urban Design Manual – Department of Housing (2009) which indicated how new developments should consider how the amenity of neighbouring residents would be affected. Regard is had to the DOEHLG 'Urban

Design Manual-A best practice guide 2009' and to the 12 criteria to promote quality sustainable urban design discussed in this document. Note is also had to the application of these criteria, which are divided into three sections: Neighbourhood/ Site and Home reflecting the sequence of spatial scales and order of priorities that is followed in a good design process. It is noted that a brief 12 Point Design Appraisal & Design Impact Assessment which provides a description of the proposal relative to these criteria has been submitted in Section 9.3 of the Planning Report submitted.

7.10.4. The Observers provide that the existing bungalow is one of 12 similar type bungalows which were built in the late 1940's/early 1950's on what was then the main Dublin to Belfast Road. This is therefore one of the older houses in Swords and has a distinctive character. It is considered that the proposed replacement house facing the Dublin Road while contemporary will be out of character with other houses in proximity facing this road including the bungalows to the north and south of the site. As shown on the Site Layout Plan it will be set further forward of the existing house and in line with the properties to the south. Therefore, there will be no stepped building line as provided by the existing house and it will be set forward to correspond to no. 53 to the south. I would consider that the proposed new infill development would not comply with Objective DMS39: *New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.*

7.10.5. It is noted that Objective DMS44 of the Fingal CDP seeks to: *Protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character.* It is not considered that the proposal would achieve this objective.

#### 7.11. **Regard to Precedent**

7.11.1. There is concern that the current proposal does not respect the local context and street pattern and would be out of character in the area to the detriment of the local environment. Also, that it would set an undesirable precedent for such piecemeal backland development, which would be detrimental to the character of the area. It is noted that the Planning Report submitted with the application included details and



aerial photographs showing other backland developments that have been constructed in the area. However, each case is considered on its merits and the current application presents its own issues. I would consider that the proposed development to the rear of No. 51 is premature and a more consolidated approach may be achieved in the future if more of these long rear gardens were amassed and vehicular access to Carlton Court became a possibility.

7.11.2. Also of note are the: *Sustainable Residential Development in Urban Areas* Guidelines which refer to potential for sustainable back-land development and includes as General advice in Section 6.3: *Designs for the development of backlands should seek, where feasible, to maximise permeability for pedestrians and connectivity to existing streets and roads rather than creating cul-de-sacs and dead-ends.*

## 7.12. **Boundary issues**

7.12.1. It is proposed to provide a 1.8m high rendered capped boundary wall along the southern, northern and eastern boundaries of the site. It is noted that the proposed wall will extend for approx.129m along the southern boundary, which will become a dominant feature of this proposal. There are trees along the eastern and northern boundaries of the site which are not shown on the Site Layout Plan.

7.12.2. The Observers are concerned that boundary issues have not been sufficiently addressed in this application. No. 53 Dublin Road to the south is concerned that the demolition of the garages will impact on their rear boundary. No 47 has concerns about the impact on their rear east facing boundary wall. There is also concern as noted by No.49 about the height of the boundary walls and this proposal not fitting in with the character of the area. They also have concerns about the impact on the extent of their site boundaries. It is noted that in view of extensive planting it is difficult to ascertain the northern and western boundaries at present.

7.12.3. It is of note that the issue of ownership is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: "*A person shall not be entitled solely by reason of a permission under this section to carry out any development*". Under Chapter 5.13 'Issues relating to title of land' of the 'Development Management - Guidelines for Planning

Authorities' (DoECLG June 2007) it states, inter alia, the following: "*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...*"

### 7.13. Services

- 7.13.1. A Services Report has been prepared by Kavanagh Ryan & Associates Ltd. This has regard to and provides details of Foul and Storm Water Management. They provide that no difficulties are expected with regard to water supply having regard to the limited scale, extent and nature of the proposed development. Details are given of proposed connections to the foul sewer on the Dublin Road. It is provided that the increase in flow is negligible in relation to the capacity of the foul sewer.
- 7.13.2. Details are given of the total area of the roofs of the dwellings and the proposal is to regulate the flow off site using a hydrobrake located in a manhole and attenuation tank. A connection is proposed to the existing sewer on the Dublin Road. Details are given of storage calculations. It is noted that the proposed hard-standings are either permeable or will drain to landscaped areas which further aids SuDS compliance.
- 7.13.3. The proposed development is to be served by a connection to the existing water supply network and it is provided that it will utilise best practice in water conservation. Details are given of proposed water usage and storage.
- 7.13.4. They have regard to flood risk and to the OPW National Flood Hazard Mapping service and conclude that there is no coastal, fluvial or pluvial flood risk to the proposed buildings on site, or to sites in the vicinity. They provide that the proposed works are to be carried out in accordance with the greater Dublin regional code of practice for drainage works.
- 7.13.5. It is of note that Irish Water and the Council's Water Services Section have a number of concerns relative to drainage connections and the provision of services. They note that the surface water drainage requires to be designed to Taking-in-Charge standard and consider that insufficient information has been submitted relative to discharge rate and water quality management. Irish Water requires F.I in relation to the proposed pumping installation; a drainage connection required to the bin storage area and clarification on the water connection arrangement to the replacement

dwelling. Therefore, there are a number of issues relative to drainage need to be clarified.

#### **7.14. Screening for Appropriate Assessment**

- 7.14.1. The Planning Report submitted provides that the application has been screened for Natura Impact Assessment which found that the proposed development will not result in significant adverse impacts to Natura 2000 sites in the vicinity. The closest are the Malahide Estuary SAC (site code: 000205) and the Broadmeadow/Swords Estuary SPA (004025) both c.2.1kms from the site. It is provided that, there is no hydrological link and with the incorporation of a SuDS drainage system into the development will ensure no negative impact on any protected habitats.
- 7.14.2. It is 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 Site Nos. Malahide Estuary SAC (site code: 000205) and the Broadmeadow/Swords Estuary SPA (004025), 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.

### **8.0 Recommendation**

- 8.1. I recommend that permission be refused for the reasons and considerations below.

### **9.0 Reasons and Considerations**

1. Having regard to the design and layout including the provision of a long access road to the rear of the site, it is considered that the scale and nature of the proposed development would constitute undesirable piecemeal backland development which would seriously injure the amenities of the area, would result in substandard residential amenity for future occupants, would represent overdevelopment and a crammed form of development and would set an undesirable precedent for further such uncoordinated backland development in the rear gardens of these properties. The development

proposed would, therefore, be contrary to Objectives DMS39 and DMS44 and PM44 of the Fingal County Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.

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Angela Brereton  
Planning Inspector

29th of June 2018