



An
Bord
Pleanála

Inspector's Report ABP 307003-20

Development	Revisions to part of previously permitted development Reg. Ref. F11A/0473 to omit 47 units to now provide 57 units in total.
Location	Lands south of the Glen Ellan Road, east of Miller's Avenue and north of the Rathbeale Road, Miller's Glen, Swords, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0101
Applicant	Gannon Properties
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions.
Type of Appeal	Third Party
Appellant(s)	Eugene Murtagh & Catherine English
Observer(s)	None
Date of Site Inspection	11 th August 2020

Inspector

Brendan Coyne

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	8
4.0 Planning History.....	15
5.0 Policy and Context.....	16
5.1. Development Plan.....	16
5.2. Natural Heritage Designations	18
5.3. EIA Screening	18
6.0 The Appeal	19
6.1. Grounds of Appeal	19
6.2. Applicant Response	19
6.3. Planning Authority Response	21
6.5. Further Responses.....	22
7.0 Assessment.....	22
8.0 Recommendation.....	27
9.0 Reasons and Considerations.....	27
10.0 Conditions	27

1.0 Site Location and Description

- 1.1. The site (c.1.27 ha) is located on the northern side of the Rathbeale Road (R125), in the townland of Oldtown c. 2.5km to the north-west of Swords centre. The site is L-shaped and is bound by Miller's Avenue to the west, Glen Ellan Road to the north and 3 no. detached dwellings known as 'Ravenswood', 'Bellevue Cottage' and 'Bellview House' at its south-eastern corner. Ravenswood is the most western of the dwellings and Bellview House is the most eastern. Mature deciduous and coniferous trees define the shared boundary of the site with the neighbouring dwellings. Swords Educate Together National School, Applewood Community Centre and Gaelscoil Bhrian Bóimhe are located on lands adjoining the eastern boundary of the site.
- 1.2. The site was previously greenfield and is currently subject to clearance works. The ground level of the site is generally flat with soil mounds located along the south eastern boundary adjoining Ravenswood. The site forms part of a previously approved development whereby permission was granted for 222 no dwellings and 1510 sq.m. of retail, creche and commercial use, granted permission under P.A. Ref. F11A/0473. The subject site is referred to by the Applicant as Phase 2C of the overall development. The site is located within a 50km/hr speed limit.

2.0 Proposed Development

2.1.1. *Application as lodged on the 04/03/2019:*

Permission sought for revisions to part of previously permitted development P.A. Ref. F11A/0473 to omit the following;

- 10 no. 4-bedroom 2 storey houses,
- 10 no. 3-bedroom 2 storey houses
- 6 no. 2-bedroom 2 storey houses
- 18 no. 2 bedroom apartments in 3 blocks of 3 storeys each
- 3 no. 2-bedroom + study own-door maisonettes

(47 units in total)

And their replacement with the following;

- 25 no. 3-bedroom 2 storey houses
 - 4 no. 1-bedroom apartments
 - 8 no. 2-bedroom apartments
 - 20 no. 3-bedroom duplex units in 2 blocks of 3 storeys
- (57 units in total – an increase of 10 units)

The proposed development includes 106 no. car parking spaces and all associated and ancillary site works.

2.1.2. Revised Proposal as submitted by way of Significant Further Information on the 23/08/2019;

- Revisions to the layout of Unit Nos. 01 to 03 to provide a terrace of 4 no. units – increasing the overall no. of housing units to 58 no. units.
- A revised parking layout providing 112 no. parking spaces comprising the following:
 - 52 no. spaces for the 26 proposed houses.
 - 52 no. spaces for the 32 apartment / duplex units, including 2 disabled spaces.
 - 8 no. spaces allocated for visitors.
- The omission of the most western access junction on the Glen Ellan Road,
- Increase in the area of public open space from 830 sq.m. to 930 sq.m.
- Revised landscape plan including the omission of planting along the northern and southern edges of the area of open space between Blocks A & B.
- Provision of safe crossing points to the central area of public open space on all sides.
- 2 no. options regarding the area of semi-private open space, grassed area and two bin and cycle stores between Blocks A and B comprising the following:
 - Option A: The amalgamation of the originally proposed 2 no. bin / cycle stores between Blocks A and B.

- Option B: The integration of the bin store into Block A and the cycle store into Block B.

2.1.3. **Significant Clarification of Further Information as submitted on the 23/01/2020:**

- The omission of the terrace of 4 no. units, as submitted by way of Further Information and their replacement with 1 no. detached 2-storey dwelling and 2 no. semi-detached 2 storey dwelling units.
- Provision of 1 no detached 2-storey dwelling (B2/06) at the eastern end of Road 9.
- Provision of a new cul-de-sac 'Road 11' between the eastern end of Block A and dwelling B1/01.
- A revised car parking layout providing 99 no. car parking spaces comprising the following:
 - 50 no. spaces for the 25 houses.
 - 44 no. spaces for the 32 apartments / duplex units, including 2 disabled spaces.
 - 5 visitor parking spaces.
- Revised bin / cycle store layout.
- Pedestrian access from Miller's Avenue to the proposed courtyard between Blocks A & B.
- The provision of an interim childcare facility at house no. B/16.
- Revised drainage plans.

3.0 **Planning Authority Decision**

3.1. **Decision**

Grant Permission subject to 34 no. Conditions. Noted Conditions include:

Condition No. 2 This decision permits 56 no. dwelling units, comprising 24 no. 3 bed houses, one of which shall provide for an interim childcare

facility, 4 no. 1-bed apartment units, 16 no. 2-bed apartment units and 12 no. 3 bed duplex units.

Condition No. 3 Prior to commencement, submit for the written agreement of the Planning Authority revised plans demonstrating the provision of a childcare facility in place of House no. B/16 (as per Dwg No. 1643 P2C-03 submitted on the 23/02/202) to serve the development of Phase 2C until such time as a larger facility under the overall Phase 2 development is made operational.

Planning permission is required to change House Number B/16 from an interim childcare facility to another use (i.e. residential unit).

Condition No. 7 Submit for agreement, revised plans demonstrating the following revisions;

- a) The omission of unit B2/06 at the eastern end of Road 9 and its replacement with an appropriately planted area of public open space.
- b) Dwelling units A2/07 and A/08 at the south-eastern end of Road 9 shall be replaced by 2 no. new semi-detached 'B' type units.
- c) Dwelling Unit A/09 shall be replaced with an 'A' type end-of-terrace dwelling unit.
- d) Dwelling Unit A1/25 shall be replaced with a dual aspect house type with an associated lowering of the boundary wall along the Rathbeale Road.

Condition No. 8 Submit for agreement, revised plans demonstrating the following;

The carriageway widths of the roads linking Roads 7 and 8 shall be increased by 0.5m.

The proposed kickabout space shall be reduced by 0.5 metres at both ends, which shall be added to the respective carriageway widths.

Condition No. 9 Submit for agreement, revised plans detailing the following:

- a) Each apartment / duplex unit shall be assigned separate secure bicycle storage compartments (serving 2 no. bicycles). Each compartment shall have separate access gates.
- b) Pedestrian access gates from Miller's Avenue to the proposed courtyard between Blocks A & B shall not be fenced off or gated.
- c) The westernmost visitor bicycle storage unit in the proposed courtyard between Blocks A & B shall be omitted and replaced with street tree planting. The remaining visitor bicycle storage unit shall be detailed with a pollinator friendly green roof.

Condition No. 10 Submit for agreement, a revised landscape plan detailing appropriate boundary treatment along the eastern boundary which borders the privately owned dwellings (Ravenswood, Belleview Cottage and Bellview House).

Condition No. 11 Landscaping and Planting requirements.

Condition No. 12 Road Design and Parking Requirements.

Condition No. 19 Part V housing requirements

Condition No. 20 Provide a piece of public art, sculpture or architectural feature, subject to agreement with the Parks and Green Infrastructure Division.

Condition No. 21 Archaeological monitoring by a licensed archaeologist.

Condition No. 33 Bond requirement for the provision and satisfactorily completion of services.

Condition No. 34 Development Contributions requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. *Initial Report (25/04/2019)*

- The proposal is acceptable in accordance with the 'RA' zoning objective of the site.

- The proposal provides an increase of 10 units to the development permitted under P.A. Ref. F11A/0473, providing a density of 44.67 units per hectare.
- The subject lands are designated lower density under the Oldtown-Mooretown Local Area Plan. The proposed development in the context of the overall density of Phases 2a, 2b and 2c at 36.17 units per hectare is acceptable.
- Given the series of revision applications on the Oldtown-Mooretown lands, an outline of the delivery to date of the phasing requirements of the Oldtown-Mooretown Local Area Plan is required.
- The proposed layout is generally acceptable, however some issues of concern include the following;
 - The layout of housing units 01-03 is poorly integrated with the overall development and provides poor boundary treatment and depth of rear garden space.
 - The terracing divide of house nos. 06 – 16.
- The proposed development will not have a negative impact on neighbouring existing residential units in terms of overlooking, loss of privacy or loss of overshadowing.
- Internal room size and private amenity space for the proposed units comply with Development Plan and relevant Government Guideline standards.
- The childcare facility permitted under F18A/0410 could only accommodate 14 no. units under the subject application. There is therefore a shortfall in childcare provision for the proposed development.
- The indicated area of public open space has been miscalculated.
- The central area of public open space is poorly defined and provides poor passive surveillance.
- Concern regarding the functionality of the area of semi-private open space and its proximity to the bin storage area.
- The proposed playground should be located in the larger area of public open space.

- As the proposed development is for revisions to an existing permitted development, a revised Environmental Impact Assessment is not required. The revisions are not considered significant.

3.2.3. Further Information was requested, requiring the following;

1. (a) Revised parking layout providing 112 no. parking spaces.
(b) Revised road layout addressing a potential conflict of right turning traffic on Glen Ellan Road.
(c) Drawing detailing permitted road layout and road markings along Glen Ellan Road.
2. (a) Address the miscalculation of open space provided.
(b) Provide safe crossing points to the central area of public open space.
3. Address the area of public open space between Blocks A and B.
4. Revised Landscape Plan.
5. Address childcare provision requirements.
6. Address the layout of Unit Nos. 01 to 03.
7. Provide an update on the delivery of infrastructural requirements under the phasing programme of the Oldtown-Mooretown Local Area Plan.

3.2.4. **Second Report (14/10/2019)**

- The revised parking layout submitted is not acceptable.
- The applicant appears to have miscalculated the parking requirement for the 2 - bedroom apartments. The proposal provides a shortfall of 2.4 no. spaces.
- The layout of the car parking around the public open space is substandard.
- The road width to the south of the public open space should be 6m., in accordance with the requirements of the Design Manual for Urban Streets and Roads.
- House B1 provides substandard parking and passive surveillance of the laneway to its west.

- The parking arrangement for house B1/04 is substandard given its proximity to a road junction.
- The parking provision for houses B1/02 and B1/03 is substandard by reason of it being surrounded by a 1.8m high wall, which could lead to a conflict between vehicles and pedestrians.
- The omission of the western access junction on Glen Allen Road is acceptable.
- The drawing submitted showing the permitted road layout and road markings along Glen Allen Road is acceptable.
- The Applicant has adequately addressed the calculation of public open space.
- The Applicant has not addressed the provision of car parking adjoining the area of public open space. The provision of new parking bays A25 and A26 exacerbate this.
- The applicant has offered 2 options regarding the treatment of the area of open space between Blocks A & B, as follows
 - Option A: The originally proposed 2 no. bin / cycle stores are amalgamated between Blocks A and B. Concerns regards this option include insufficient provision of bicycle spaces, limited overlooking, degradation of the streetscape along Miller's Avenue and inappropriate amalgamation of uses.
 - Option B: The bin store is integrated into Block A and the cycle store is integrated into Block B. Concerns regarding this option include insufficient provision of bicycle spaces and a concentration of bin / bike storage uses at this location
- No pedestrian permeability is provided along the western boundary, which would lead to a poor-quality public realm.
- Drawings submitted do not adequately detail the proposed filter drain on the central area of public open space, detail conflict between proposed drains and tree planting and do not detail the provision of permeable paving to driveways.
- The applicant proposes to amend the development recently permitted under P.A. Ref. F18A/0410 to increase the childcare facility from 51 spaces to 93 spaces. An

interim resolution to this issue could entail one or more of the units under the subject application being conditioned to be used as a childcare facility.

- The Oldtown-Mooretown Local Area Plan phasing programme infrastructure requirements delivery schedule is acceptable.
- The increase in the number of houses from 57 to 58 no. units, resulting in a density of 45.45 units per hectare is acceptable.
- The proposal does not provide a separate distance of 22m between house nos. A2/22, A2/23 and A2/24 and the side elevation and side dormer window of existing dwelling Ravenswood.
- A substantial line of trees along the shared boundary would screen the ground floor area of Ravenswood.

3.2.5. Clarification of Further information was requested regarding the following;

1. Address the shortfall in car parking provision.
2. Address the car parking layout around the central area of public open space.
3. (i) Address the bin / cycle storage area between Blocks A and B and (ii) address the shortfall in car parking provision.
4. Submit coordinate drawings detailing water services infrastructure and tree planting.
5. Identify a proposed dwelling as an interim childcare facility.
6. Address the layout of House Nos. B1/01 – B1/04 with regard parking and provision of passive surveillance of the laneway.

3.2.6. **Third Report (03/03/2020)**

- The number of parking spaces has been reduced by the omission of the additional dwelling and the redesign of the scheme.
- The parking provision is to the satisfaction of the Transportation Planning Section.
- The car parking along the perimeter of the public open space has been omitted.

- A 1.2m high railing has been included in order to improve road safety within the development.
- The minimum width of internal roads is insufficient to the north and south of the area of public open space (6m wide required). This can be achieved by reducing the depth of the public open space, with the additional space added to the carriageways.
- The provision of secure access to bicycle storage compartments for each apartment can be dealt with by way of Condition.
- The westernmost visitor bicycle parking unit should be omitted, and a pollinator friendly green roof should be provided to the remaining unit.
- Revised drawings submitted resolve conflicts between water services infrastructure, tree planting and other services e.g. public lighting.
- Permeable paving of car parking spaces is not indicated. This can be Conditioned.
- Unit No. B/16 is to be reserved as an interim childcare facility which addresses the issue of childcare provision.
- The omission of the 4 no. B1 units and their replacement with 3 no. dwellings with revised layout is acceptable. Their revised layout would ensure passive surveillance of the pedestrian laneway to Glen Ellan Road and provide an improved parking arrangement.
- The proposed new dwelling B2/06 creates a substandard parking / open space provision and does not provide a sufficient buffer / setback from the historic townland boundary. This dwelling should be omitted by way of Condition.
- Omission of house B2/06 would enable the provision of a breakup of the extended terrace along Road 9 and provision of variety of house type. House Nos. A2/07 and A/08 shall be replaced with two semi-detached B type units. This will turn house No. A/09 into an end-of-terrace dwelling unit.
- A small area of public open space should be provided at the eastern end of Road 9.

3.2.7. **Other Technical Reports**

3.2.8. **Transportation Section:**

First Report: Further Information requested with regards car parking provision and road layout

Second Report: Revised amendment submitted not acceptable.

Third Report: No objection subject to Conditions.

3.2.9. **Water Services Section:**

First and Second Reports: No objection subject to Conditions.

3.2.10. **Parks and Green Infrastructure Division:**

First Report: Further Information requested with regard the provision and layout of public open space parking

Second Report (Verbal): Concerns with regards parking adjoining the public open space, the location of bin storage and the boundary treatment which may negatively impact on the townland boundary hedgerows.

Third Report: No objection subject to Conditions.

3.2.11. **Community Archaeologist:** No objection subject to Conditions.

3.2.12. **Community, Culture & Sports:** No objection subject to Condition requiring the provision of public art on the overall site.

3.2.13. **Prescribed Bodies**

Irish Water: No objection subject to Conditions.

Fingal County Childcare Committee: The expected increase in the population of the area will put extreme pressure on existing early years and school age services in this part of Swords. Additional full-time, part-time, sessional and school age childcare places are required to meet the needs of parent in the housing development.

4.0 Planning History

4.1.1. The site forms part of the Oldtown and Moorestown lands which was subject to the Oldtown-Mooretown Local Area Plan (expired on the 12th July 2020). Four large developments were granted permission on the Oldtown and Moorestown lands, which are referred to by the Applicant as follows; Phase 1 (permitted under Ref. F11A/0436), Phase 2 (F11A/0473), Phase 3 (F15A/0390) and Phase 4 (F17A/0666, F17A/0735 and F17A/0687). There have been multiple subsequent planning applications making minor revisions to Phases 1, 2 and 3, all of which have been granted permission. Relevant planning applications to the proposed development are summarised below:

4.1.2. Subject Site:

F11A/0473 Permission GRANTED in January 2013 for the construction of 222 dwellings and 1510sqm of commercial development on lands north of the Rathbeale Road and the Glen Ellan Road. The commercial element is all located at ground level around a new public square and comprises a convenience food store with ancillary off-licence of 830sqm, a shop of 180sqm, a shop of 122sqm, a restaurant with hot-food take-away of 185 sqm and a creche of 193sqm. The development includes all associated site works and infrastructure which includes a new road connection and ancillary works to the Rathbeale Road, landscaped open space, internal roads, paths, cycle-paths, public lighting, utilities, drainage and surface water attenuation.

The duration of permission was extended under F11A/0473/E1 and now expires on the 23rd February 2023.

4.1.3. Lands to the north of Glen Ellan Road:

F11A/0436 Permission GRANTED in September 2012 for the construction of 245 dwellings and a 316m² two-storey creche. The residential development comprises 104 four-bedroom houses, 113 three-bedroom houses, 12 two-bedroom houses, 8 three-bedroom maisonettes and 8 one-bedroom apartments in two and three storeys. The development includes all associated site works and infrastructure which includes landscaped open space, internal roads, paths, cycle paths, public lighting, utilities, drainage, surface water attenuation and a temporary emergency access road.

P.A. Ref. F18A/0412 Permission GRANTED in October 2018 for revisions to part of previously permitted development Reg. Ref. F11A/0473 to omit 15 no. 4-bedroom 2-storey houses, 1 no. 4-bedroom 2.5 storey house and 50 no. 3-bedroom 2-storey houses (66 units in total) and to now provide 11 no. 4-bedroom 2-storey houses, 65 no. 3-bedroom 2-storey houses and 4 no. 1-bedroom and 11 no. 2-bedroom apartments in a single 4-storey block (91 units in total). As per Condition No. 2 of the permission, the approved development permits 91 number dwelling units comprising 65 no. 3-bedroom houses, 11 no. 4-bedroom houses and 15 apartment units.

F15A/0390 Permission GRANTED in August 2016 for the construction of 172 dwellings and a creche.

F17A/0666 Permission GRANTED in April 2018 for the construction of 41 houses and 54 apartments.

F17A/0735 Permission GRANTED in July 2018 for the construction of 53 houses and 45 apartments.

F17A/0687 Permission GRANTED in July 2018 for the construction of 92 no. dwellings.

5.0 Policy and Context

5.1. Development Plan

Fingal County Development Plan 2017-2023 is the statutory plan for the area.

Oldtown / Mooretown Local Area Plan: The site is located within an area designated as part of the Oldtown – Mooretown Local Area Plan lands, which was adopted by Fingal County Council on the 11th October 2010. The life of this plan was extended up to the 12th July 2020.

The following provisions of the Fingal County Development Plan 2017-2023 are considered relevant:

Zoning: The site is zoned objective 'RA' which seeks 'Provide for new residential communities subject to the provision of the necessary social and physical infrastructure.

Objective SWORDS 27 Implement the Oldtown / Mooretown Local Area Plan

Section 12.4 Design Criteria for Residential Development

Objective DMS28 A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over 3 storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.

Objective DMS56 Integrate and provide links through adjoining open spaces to create permeable and accessible areas, subject to Screening for Appropriate Assessment and consultation, including the public, as necessary.

Objective PM65 Ensure all areas of private open space have an adequate level of privacy for residents through the minimisation of overlooking and the provision of screening arrangements.

Objective DMS57A Require a minimum 10% of a proposed development site area be designated for use as public open space.

Objective DMS24 Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3.

Table 12.1 Quantitative Standards for Houses

Table 12.2 Quantitative Standards for Apartments / Duplexes

Objective DMS36 Ensure all new residential schemes include appropriate design measures for refuse storage areas, details of which should be clearly shown at pre-planning and planning application stage. Ensure refuse storage areas are not situated immediately adjacent to the front door or ground floor window, unless adequate screened alcoves or other such mitigation measures are provided.

Objective DMS94 Any application for childcare facilities shall have regard to the following:

- Suitability of the site for the type and size of facility proposed.

- Adequate sleeping/rest facilities.
- Adequate availability of indoor and outdoor play space.
- Convenience to public transport nodes.
- Safe access and convenient off-street car parking and/or suitable drop-off and collection points for customers and staff.
- Local traffic conditions.
- Intended hours of operation.

Objective DMS130 Ensure that new residential developments are designed in accordance with DMURS to create low-speed environments.

Table 12.8 Car Parking Standards

Table 12.9 Bicycle Parking Standards

5.2. National Guidelines

Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009)

Urban Design Manual - A Best Practice Guide (2009)

Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)

Sustainable Urban Housing: Design Standards for New Apartments (2018)

Design Manual for Urban Roads and Streets (2019)

Childcare Guidelines for Planning Authorities (2001)

5.3. Natural Heritage Designations

- 5.3.1. The site is located c.3 km to the north-west of the Malahide Estuary SPA (Site Code: 004025) and SAC (Site Code: 000205).

5.4. EIA Screening

Having regard to the nature and scale of the proposed development on zoned and serviced land, there is no real likelihood of significant effects on the environment

arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal was received from Eugene Murtagh and Catherine English against the decision made by the Planning Authority to grant permission for the proposed development. The appellants reside at adjacent dwelling 'Ravenswood' along the Rathbeale Road which adjoins the site at its south-eastern corner. The following is a summary of the grounds of appeal.

- Concern with regards the proximity of the proposed development to the Appellant's dwelling. Specifically, House Nos. A/21, A/22 and A/23 would be located 11.6 metres from the western boundary of the Appellant's dwelling.
- The proposed development would result in overlooking and loss of privacy of the of the Appellant's dwelling.
- Appellants refer to the original development permitted under F11A/0473. The layout of the dwellings under this permission maintained a separation distance of 22 metres from the Appellant's dwelling, which was deemed acceptable.

6.2. Applicant's Response

6.2.1. The response received from Conroy Crowe Kelly Architects and Urban Designers, representing the Applicant, is summarised as follows;

- A garden with a depth of 11 metres is the norm for new development of 2-storey dwellings. This provides for a back-to-back distance of 22 metres between opposing first floor windows.

- The Appellant's house is orientated at a right angle to dwelling Nos. A1/17 to A1/25 and has a large front and rear garden to its north and south.
- The separation distance of greater than 16m from the rear of the proposed development to the Appellants side gable elevation and the existence of mature trees and hedges along the common boundary will provide a sufficient level of privacy and protection of amenity.
- The proposed development is compliant with current planning policy and Ministerial Guidelines.

6.2.2. In an attempt to address the concerns of the Appellant, the Applicant has submitted a suggested option for the consideration of the Board. The suggested option would provide the following:

- Unit Nos. A1/17 to A1/25 are rotated 8° and these dwellings and roadway are moved further west away from the Appellant's boundary. This would create a distance of c.21 meters from the gable elevation of the Appellant's dwelling.
- The revised layout would result in the omission of 6 no. parking spaces serving the duplex units from the permitted scheme.
- The omission of the 6 no. spaces would reduce the ratio for the 3-bedroom duplex units from 2 spaces to 1.33 spaces per unit.
- The Applicant considers that a reduction in car parking from 22 to 16 spaces for the 12 no. 3-bedroom duplex units is not unreasonable.
- The development is part of a larger new neighbourhood located 4.5km from Swords, served by public transport and which has two primary schools, a community centre, parks, shops and creches (both under construction) on its doorstep.
- The Section 28 Design Standards for New Apartments Guidelines recommend a reduced parking standard for intermediate urban locations and a benchmark of 1 space per unit in peripheral urban locations.
- A rate of 1.33 spaces per 3-bedroom duplex unit exceeds these standards.

- The Applicant requests the Board to grant permission for the development in its entirety and if deemed appropriate, to condition the re-location of Unit Nos. 17 to 25, as per drawing No. 1643 P2C-App-01 submitted.

6.2.3. Documentation submitted with the applicant's response includes the following:

- Layout plan of suggested option providing for the re-orientation and relocation of House Nos. A1/17 to A1/25.

6.3. **Planning Authority Response**

6.3.1. ***Response to Third Party Appeal – 22nd June 2020.***

The Planning Authority's response is as follows;

- The side of Ravenswood is c. 16.5 metres from the proposed dwelling no. A2/22, the closest of the dwellings referred to by the Appellants.
- This 16.5 metres is made up primarily of the rear garden of unit A2/22 (i.e. 11.3 metres) with the balance being the side garden of Ravenswood.
- Notwithstanding the 16.5 metre separation distance, which is considered adequate to mitigate a perception of overlooking, given the orientation of the dwelling the Planning Authority imposed the following Conditions to further mitigate this perception of overlooking:
 - Condition No. 10: Prior to commencement of development, the Applicant shall submit for the written agreement of the Planning Authority a revised landscape plan with appropriate boundary treatment along the eastern boundary which borders the privately owned dwellings Ravenswood, Belleview Cottage and Belleview House.
 - Condition No. 11: Submit for agreement a revised landscape plan showing the agreed boundary treatment along the eastern boundaries.

6.3.2. ***Response to First Party Response to Third Party Appeal – 22nd July 2020.***

- The Planning Authority is concerned that the suggested alternative proposal will lead to the loss of 6 no. car parking spaces (i.e. all 5 no. visitor parking spaces and 1 no. additional parking space).

- The proposal would result in a loss of public open space from the central green area, reducing this space from 1,246sq.m. to 1,184 sq.m. and a smaller loss of landscaped area onto the Rathbeale Road (originally screening the 5 no. visitor parking spaces).
- The Planning Authority does not support the suggest alternative option as it would undermine car parking and open space provision standards of the Fingal County Development Plan.

6.4. Further Responses

6.4.1. Further to the Applicant's submission and suggested alternative proposal and the Planning Authority's response, the Appellants submitted a further response. Key points raised are summarised as follows:

- The Planning Authority's observation that a substantial line of trees screens the ground floor area of the Appellant's house is not pertinent.
- The leylandii trees along the shared boundary are in a state of advanced decline owing to their age. The Appellants have been in the process of removing these trees since 2019.
- The Appellants have removed 50% of these trees starting at the north-western corner to mid-way along the western boundary. The removal of the remainder of the trees was postponed due to engineering site offices located in the adjoining field during the upgrading of the Rathbeale Road in 2019.
- The Appellants consider the suggested alternative layout appropriate, as it would allay overlooking and privacy concerns.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Overlooking

- Layout and Design
- Appropriate Assessment

These are addressed below.

7.2. **Overlooking**

- 7.2.1. The Appellants object to the proposed development on the grounds that the dwellings adjoining the south-eastern boundary of the site shared with neighbouring dwelling 'Ravenswood', specifically House Nos. A/21, A/22 and A/23, would result in overlooking and loss of privacy of this dwelling. It should be noted that the numbering of these dwellings is different on the original and revised layout plans submitted. The Applicant contests this ground of appeal, as detailed in Section 6.2 above.
- 7.2.2. The Planning Authority in its assessment of the application noted that a minimum separation distance of 22 metres would not be provided between units A2/22, A2/23 and A2/24 and 'Ravenswood'. The report however noted that 'Ravenswood' is orientated on a north-south axis and its west facing dormer window is not technically a rear window. The Planning Report also notes that there is currently a substantial line of trees screening the ground floor area around 'Ravenswood', although these trees would not provide screening at first floor level. The Planning Authority concedes that there may be some issues relating to the loss of trees when boundary walls are constructed, impacting on existing tree roots. Conditions were imposed addressing this issue.
- 7.2.3. Having inspected the site, I found that as per the Appellants submission, some trees have been removed along the western side boundary of Ravenswood, starting at its north-western corner to mid-way along the western boundary, aligning approximately with the rear building line of Ravenswood. Remaining trees along the western side boundary comprise a mix of tall mature deciduous and coniferous trees which screen the west facing elevation and roof dormer window from the appeal site.
- 7.2.4. The layout plan submitted by way of clarification of further information details that the row of houses A1/17 to A2/21 would have rear garden depths of c.11.6 metres from the boundary shared with Ravenswood. The closest proposed houses to Ravenswood house itself are house nos. A2/21 and A2/22, which would maintain a setback of c.

16.5m from the west facing elevation of Ravenswood, which has a dormer window on its side west facing roof slope. House Nos. A2/21 and A/20 would maintain a setback of 26.6 metres from the west facing annex to the rear of Ravenswood. I note that the Planning Authority in an attempt to mitigate the perception of overlooking, imposed Conditions requiring the submission of a revised landscape plan with appropriate boundary treatment along the boundary of the site which borders Ravenswood, Belleview Cottage and Belleview House.

7.2.5. With regards the issue of overlooking, Objective DMS28 of the Fingal County Development Plan requires a minimum separation distance of 22 metres between directly opposing rear first floor windows, unless alternative provision has been designed to ensure privacy. Given that that a separation distance in excess of 32m would be maintained between the rear elevations of Belleview House and Ravenswood House and the row of proposed dwellings to their north, the proposed development would comply with the requirements of Objective DMS28 of the Development Plan. Furthermore, tall mature trees along the northern boundaries of Ravenswood and Belleview House would screen the rear gardens of these dwellings. Having regard to the north / south orientation of Ravenswood, the existing dense line of tall mature trees along its western boundary screening its west facing elevation, the 16.5m setback provided between House Nos. A2/21 and A2/22 and the west facing side elevation of Ravenswood, the 26.6m setback between House Nos. A/20 and A2/21 and the west facing rear annex of Ravenswood, the c.11.6 metres rear garden depth of the House Nos. A1/17 to A2/21 and the landscaping conditions imposed by the Planning Authority, it is my view that the proposal would not adversely impact on the residential amenity of Ravenswood by way of overlooking or loss of privacy. I recommend, therefore, that the appeal should not be upheld in relation to this issue.

7.2.6. Having regard to the suggested alternative layout option submitted by the Applicant in response to the grounds of appeal, I note and concur with the Planning Authority that the revised layout would adversely impact on the provision of visitor car parking serving the proposed development and would reduce the quantum, quality, proportions and layout of the central area of public open space. Such development would be contrary to Development Plan policy with regards open space and car parking provision. On this basis, it is my view that the suggested alternative option

submitted would be substandard and contrary to the proper planning and sustainable development of the area.

7.3. **Layout and Design**

7.3.1. The proposed development provides for revisions to the part of the development previously permitted under P.A. Ref. F11A/0473 to omit 47 no. dwelling units and their replacement with 57 no. dwellings units. While not raised in the grounds of appeal, I have assessed the layout and design of the proposed development and its compliance with relevant Development Plan standards and Planning Guidelines. Having examined the application details and all other documentation on file, I am satisfied that the proposed development generally complies with relevant Development Plan standards and Government Planning Guidelines. Key elements of the revised proposal and their compliance with these standards / requirements can be summarised as follows:

- The proposed residential development is permitted in principle in accordance with the 'RA' zoning objective of the site.
- As detailed in the Planning Authority report, the density of the proposal within in the context of Phases 2a, 2b and 2c of the overall permitted development at c. 36 units per hectare, accords with the designated lower density requirements set out under Section 3.3.1 of the Oldtown-Mooretown Local Area Plan.
- The layout and urban design of the proposal is generally acceptable and in accordance with the design criteria for urban development as required under Section 12.3 of Fingal County Development Plan.
- The layout and design of Blocks A and B would provide a strong urban edge to the streetscape along Rathbeale Road, Millers Avenue and Glen Ellan Road at this prominent location.
- The proposal provides a variety of dwelling type, design and accommodation to suit families/persons of varying size and needs.
- The internal layout, room size and private amenity space for the proposed units comply with the minimum standards required in the Development Plan.
- The quantum and quality of open space provision accords with Development Plan standards.

- The proposal provides good permeability and connectivity with its surrounding area.
- The parking provision for the proposed development is acceptable and in accordance with Development Plan standards.
- The schedule for the delivery of infrastructure is acceptable and in accordance with the phasing programme as set out under Section 4 of the Oldtown-Mooretown Local Area Plan.

7.3.2. I concur with the Planning Authority that proposed dwelling B2/06 at the eastern end of Road 9 should be omitted by reason of its substandard parking and private amenity space provision. Its omission would enable the provision of a small area of public open space at this location. I also agree with the Planning Authority's Condition seeking the replacement of Dwelling units A2/07 and A/08 at the south-eastern end of Road 9 with 2 no. new semi-detached 'B' type units and the replacement of Dwelling Unit A/09 with an 'A' type end-of-terrace dwelling unit. Such revision would address the residual open space at the eastern end of this row of dwellings and would provide a greater mix of dwelling types in accordance with Section 12.4 of the Development Plan.

7.3.3. With regards childcare provision, I note the Planning Authority requires that House No. B/16 be used as a childcare facility as required under Condition No. 3 of its permission. With this regard, I consider that House No. B1/01 would be a more appropriate location for a childcare facility given the detached nature of this dwelling which would impact less on the residential amenity of adjacent dwellings and its safer location for drop off and collection, unlike House No. B/16 where its entrance is located on a sharp road junction / crossroads which presents a greater risk to children and road users at this location. The provision of a childcare facility at Unit No. B1/01 would ensure compliance with the Childcare Guidelines for Planning Authorities (2001) which requires one childcare facility for 75 dwellings. Details of this childcare facility can be dealt with by way of Condition.

7.3.4. As raised by the Planning Authority, outstanding issues with regards carriageway width to the north and south of the area of public open space, bicycle parking, bin storage and landscaping can be dealt with by way of Condition.

7.4. **Screening for Appropriate Assessment**

7.5. 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 settlement, and having regard to its separation distance from any European site, 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 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 be granted subject to conditions, for the reasons and considerations below.

9.0 **Reasons and Considerations**

Having regard to the provisions of the Fingal County Development Plan 2017-2023, the planning history and the zoning of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual and residential amenity of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 23 rd day of August 2019, the 11 th September 2019, the 23 rd day of January 2020 and the 04 th February 2020 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be
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	<p>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.</p> <p>Save for the development granted on foot of this permission, the development shall otherwise be carried out in strict accordance with the terms and conditions of Planning Permission Register Reference F11A/0473 save as may be required by the other conditions attached hereto.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority, revised plans and particulars detailing the provision of a childcare facility at the location of House No. B1/01, as detailed on Drawing No. 1643 P2C-03 submitted on the 23rd day of January 2020. The layout, design, capacity and hours of operation of the childcare facility shall be in accordance with the 'Childcare Facilities: Guidelines for Planning Authorities' issued by the Department of the Environment and Local Government in June 2001 and the requirements of the Planning Authority.</p> <p>Reason: To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity and of the proper planning and sustainable development of the area.</p>
3.	<p>Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority, revised plans and particulars detailing the following;</p> <ul style="list-style-type: none"> (i) The omission of House No. B2/06 at the eastern end of Road 9 and its replacement with an appropriately landscaped area of public open space. (ii) House Nos. A2/07 and A/08, as detailed on Dwg. No. 1643 P2C-03, shall be replaced with 2 no. 'B' type semi-detached houses. (iii) House No. A/09, as detailed on Dwg. No. 1643 P2C-03, shall be replaced with an 'A' type end-of-terrace house.

	<p>(iv) The southern side elevation of House No. A1/25, as detailed on Dwg. No. 1643 P2C-03, shall be designed to address the Rathbeale Road by providing an active and appropriately designed elevation treatment.</p> <p>Reason: In the interest of road safety, residential and visual amenity and the proper planning and sustainable development of the area.</p>
4.	<p>Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority, revised plans and particulars detailing the internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs. Details to be submitted shall comply with the detailed standards of the Planning Authority for such road works.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
5.	<p>Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority, revised plans and particulars detailing the bicycle storage and bicycle parking serving the proposed development. Details to be submitted shall show the omission of the westernmost bicycle storage unit between Blocks A and B and its replacement with additional street tree planting.</p> <p>Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.</p>
6.	<p>Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority a detailed Landscape Plan with full works specification. This plan to include detailed specifications relating to paths, landscaping features, street furniture, bike parking, drainage, boundary treatment, planting, hard surfaces and street trees planting where necessary. Details regarding the type, size, location and number of plants proposed should be clearly indicated on a Planting Plan to accompany the Landscape Master Plan.</p> <p>Details to be submitted shall provide appropriate boundary treatment along the eastern and southern boundaries shared with neighbouring dwellings Ravenswood and Belleview House.</p>

	<p>All trees and hedgerows within and on the boundaries of the site, except those specified trees whose removal is authorised in writing by the planning authority to facilitate the development, shall be protected during building operations and shall be retained thereafter.</p> <p>Reason: In the interest of residential and visual amenity.</p>
7.	<p>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. Roof colours shall be blue-black or dark grey only, including ridge tiles.</p> <p>Reason: In the interest of visual amenity.</p>
8.	<p>Prior to the commencement of development proposals for an estate/street name, and house numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of orderly development.</p>
9.	<p>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.</p> <p>Reason: In the interests of amenity and public safety.</p>
10.	<p>The development hereby permitted, including all roads, footpaths, and public lighting, shall be carried out in accordance with the standards and requirements of the planning authority for taking in charge. The development shall be maintained by the developer until taken in charge by the authority and shall not be operated or maintained by a private management company.</p> <p>Reason: In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the development, when completed, can be taken in charge by the planning authority.</p>

11.	<p>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 noise and dust management measures, measures to prevent pollution to local watercourses, and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of clarity, orderly development and amenity.</p>
12.	<p>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 overground cables crossing or bounding the site shall be undergrounded as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
13.	<p>A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and for storage of deliveries to the site.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
14.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
15.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>

16.	<p>All of the communal / visitor car parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interest of sustainable transportation</p>
17.	<p>A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: In the interests of residential amenity and proper waste management.</p>
18.	<p>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.</p>

	<p>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.</p>
19.	<p>Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority the following;</p> <p>(a) Proposals for site boundary treatments. Plans and particulars shall show full details of the specific locations and extent of proposed walling/railings and shall include the provision of durable materials, with walls suitably capped and rendered.</p> <p>(b) Proposals for boundary treatments around dwellings.</p> <p>Reason: In the interest of visual amenity.</p>
20.	<p>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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
21.	<p>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.</p>

	<p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
22.	<p>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.</p> <p>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.</p>

Brendan Coyne
 Planning Inspector

19th August 2020