

An  
Bord  
Pleanála

# S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

## Inspector's Report ABP-308366

**Strategic Housing Development**

278 no. apartments, childcare facility  
and associated site works.

**Location**

Fosterstown North and Cremona,  
Forest Road, Swords, Co. Dublin

**Planning Authority**

Fingal County Council

**Applicant**

MKN Property Group

**Prescribed Bodies**

Irish Aviation Authority

Irish Water

National Transport Authority

Transport Infrastructure Ireland

Dublin Airport Authority

**Observers**

1. Adrian Polly
2. Aideen Biggins
3. Alan and Emir Higgins
4. Alan and Sandra Kavanagh
5. Allison Manning
6. Amanda Elliot
7. Amy Traynor
8. Andrew and Geraldine McDyer
9. Angelo Cunningham
10. Angnieszka Duranel
11. Ann Byrne
12. Ann Graves
13. Anne and Robert Tracy
14. Anne Molloy
15. Annette O'Brien
16. Aoife Reynolds
17. Barbara Gibney
18. Barbara Haverly
19. Barry Nicholson
20. Belinda Barker
21. Bernadette Hobbs
22. Bernadette Magee
23. Blaithnaidh Ni Chinneide
24. Brendan McGroder
25. Bryan Breen

26. Carina O'Brien  
27. Carol McDonald  
28. Carolyn Watkins  
29. Cathal and Rita McGuire  
30. Catherine and Gary Conway  
31. Catherine Stobie  
32. Chester Household  
33. Cheung Chatti  
34. Cian Whelehan  
35. Claire O'Reilly  
36. Cllr Darragh Butler & Cllr Brigid Manton  
37. Collette Kiernan  
38. Damian O'Kelly  
39. Darren Core  
40. David O'Neill  
41. Dean Mulligan  
42. Declan and Anne Geraghty  
43. Deila O'Brien  
44. Derek Daly  
45. Deridre Dignam  
46. Dermot and Eithne Flynn  
47. Des and Gloria Wall  
48. Diarmuid and Suzanne White  
49. Dierdre Walsh  
50. Doris Bonnie  
51. Dorothy Byrne  
52. Duncan Smith TD  
53. Edel Ho

54. Eileen Maguire
55. Eileen Witter
56. Eilish Rogan
57. Eimer O'Connell
58. Elaine Mulvey
59. Elaine O'Connor
60. Eleanor Vipond
61. Elizabeth Florence
62. Eugene and Mary Duignan
63. Fergal and Michelle Beirne
64. Fintan and Linda Lalor
65. Fionnuala O'Reilly
66. George Mongey
67. George Moran
68. George P Hurley
69. Gerard and Anne Meiselbach
70. Gerard and Rosemary Brennan
71. Gerard O'Connor
72. Grace Loughran Dunne
73. Green Family
74. Ian Carey
75. Imelda Mulvey
76. Jackie O'Keefe
77. Jacqueline and Brendan  
Downey
78. James A Duggan
79. James and Rosemary Brennan
80. James Coyle
81. James Fitzpatrick



82. James Murphy
83. Jane Higgins
84. Jean McGill
85. Joe Moynihan
86. Joe Newman
87. John Byrne
88. John Molloy
89. Karen Heffernan
90. Karen Snow
91. Karl Lalor
92. Kenneth and Leesa Gibney
93. Kevin Hardman and Audrey Walsh
94. Kevin Lynch
95. Kevin O'Reilly
96. Kieran Brennan
97. Lagford Family
98. Laura Byrne
99. Laura McSweeney
100. Laura Saily
101. Leah Traynor
102. Leona McConnell
103. Liam and Mary Lynch
104. Lorna Kavanagh
105. Lorraine Clifford-Lee
106. Louise Kernan
107. Lyndas Methaway
108. Madeline Loughrey-Grant
109. Maire Cregan and Other

110. Marian Delaney  
111. Marian Joyce  
112. Marian Traynor  
113. Marie Reynolds  
114. Mark and Bronwyn Dowdall  
115. Martin and Mary Ryan  
116. Martin Counihan  
117. Mary Downes  
118. Mary Garland  
119. Mary Hughes and Tom Farrell  
120. Mary Maguire and John Paul McGovern  
121. Mary Maxwell and Michael Thomas  
122. Maura Dunne  
123. Michael and Aideen Biggins  
124. Michael and Theresa Kavanagh  
125. Michael Duggan  
126. Michael Emeary  
127. Michael McCarthy  
128. Michael O' Loughlin  
129. Michael Rogan  
130. Michael Walsh  
131. Michelle Lynch  
132. Miriam Byrne  
133. Miriam Core  
134. Nicky and Anthony Gray  
135. Noel Heffernan  
136. Noel Walsh

137. Noelle Hurley
138. Paddy Mulvey
139. Patrick and Francis McGowan
140. Patrick Haverty
141. Paul Gibney
142. Paul Gibson
143. Paula Higgins
144. Pauline Farrell
145. Peter McCabe
146. Peter O'Donnell
147. Rachelle and Denis O'Regan
148. Richard O'Neill
149. Robert Quinlan and Alan Walker
150. Sally Ann Devine
151. Samuel Lynch
152. Sandra Leonard
153. Sarah Chadwick
154. Sarah Kwok
155. Scott Molloy
156. Sean Whelehan
157. Sinead Butler
158. Sinead Dunne
159. Siobhan Haverty
160. St Finians GAA
161. Stephanie O'Neill
162. Stephen and Margaret Murphy
163. Sue Cullen
164. Susan Carroll
165. Susan O'Neill

166. Terence Malone  
167. Thomas Brookes  
168. Tom O'Connell  
169. Tony Gannon  
170. Tony Kane  
171. Tracey and PJ Dempsey  
172. Una and Frank Egan  
173. Una Breen  
174. Veronica Mulvey  
175. Vivienne O'Brien  
176. William and Maria Murray  
177. Yukfong Chan  
178. Yvonne Malone  
179. Catherine Duggan  
180. Damien and Fiona  
181. Niamh Shelly and James Quigley

**Date of Site Inspection**

11<sup>th</sup> January 2021

**Inspector**

Rónán O'Connor

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## 1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 2.0 Site Location and Description

- 2.1. The site is within the built up area of Swords a few hundred metres south of the town centre. It has a stated area of 2.64ha. The subject lands of this application form the north-western part of the Fosterstown Master Plan area and are bounded by Forest Road to the west and greenfield sites to the south and east. A portion of the site extends to the R132 to the east, near the junction of Pinnock Hill roundabout. To the north of the site is Cremona House. The character of the surrounding area is primarily residential and there are extensive areas of housing to the west of the Forest Road. Immediately opposite the site to the west is Hawthorn Park, River Valley Grove and Oulart housing developments, with a number of residential properties also fronting onto the Forest Road.
- 2.2. The site rises in elevation from north to south, from approximately 39.7m at the north of the site adjacent to Forest Road to approximately 47.28 OD to the south of the site. The portion of the site that extends into the easternmost field, extending to the R132 slopes down towards the R132 from approximately 40.81m OD to 33.91m OD.

## 3.0 Proposed Strategic Housing Development

- 3.1.1. The proposed development comprises of the construction of a primarily residential scheme to provide for 278 no. units within 3 no. blocks ranging in height from 5 no. storeys to 9 no. storeys. The total breakdown of units will comprise of 125 no. 1 bedroom units, 146 no. 2 bedroom units, and 7 no. 3 bedroom units, and ancillary residential amenity spaces. The proposed development will also provide for internal amenity space. The proposed development will also provide for 1 no. creche facility, 1 no. retail unit, and tenant amenity space.

Each block will contain the following:

- Block A – ranges in height between 6-9 storeys and contains 13 no. 1 bedroom units, 45 no. 2 bedroom units and 7 no. 3 bedroom units and internal amenity space, a retail unit and a creche facility at ground floor level;
- Block B – ranges in height between 5-6 storeys (over semi-basement level) containing 56 no. 1 bedroom units and 48 no. 2 bedroom units.
- Block C – ranges in height between 6-7 storeys (over semi-basement level) in height containing 56 no. 1 bedroom units and 53 no. 2 bedroom units;
- The proposed development will also include the provision of public, communal and private open space including courtyard areas, terraces, balconies and playground areas;
- A section of the proposed public open space consists of temporary open space which will be developed on in future phases;
- Public realm improvements including the provision of footpaths, road widening, cycle infrastructure and landscaping works to the Forest Road;
- Provision of a new link road from the Forest Road to provide access to the proposed development and adjoining lands. The new link road will also include a pedestrian and cycle route to the Dublin Road/ R132;
- Parking at basement level for 104 no. cars and at surface level for 102 cars to serve the residential element of the proposed development. 5 no. car parking spaces will be provided at surface level to serve the creche;
- 214 no. bicycle parking spaces will be provided at basement level and 162 no. external spaces at ground level throughout the site;
- All hard and soft landscaping, boundary treatments and all associated site development works, signage, services, substations, green roofs, PV panels at roof level and plant.

### Key Figures

Site Area	2.64 ha
No. of units	278

Density	150 unit/ha
Height	5 to 9 storeys
Public Open Space	3,385 sq. m.
Communal Space	1,528.2 sq. m.
Part V	27 units
Vehicular Access	From proposed Link Road
Car Parking	206 spaces
Bicycle Parking	376 spaces
Total Retail	262 sq. m.
Creche	354.4 sq. m.

Apartment Type	1 bed	2 bed	3 bed	Total
No. of Apts	125	146	1	27
As % of Total	45	52.5	2.5	100

#### 4.0 Planning History

##### Subject Site

Reg. Ref.: F06A/0726 – Cremona, Swords

Fingal County Council refused outline permission on the 10/07/2006 for 4 no. detached dwelling houses on lands known as Cremona, Swords which are bound to the west by Forest Road and to the east by Dublin Road.



## 5.0 Section 5 Pre Application Consultation

- 5.1.1. A pre-application consultation with the applicants and the planning authority took place at the offices of An Bord Pleanála on 11<sup>th</sup> February 2020 in respect of a proposed development of 999 no. apartments, 2 no. creches and 2 shops. An agenda was issued prior to the meeting.
- 5.1.2. In the Notice of Pre-Application Consultation Opinion dated 5<sup>th</sup> March 2020 (ABP Ref. ABP-306219-19) the Board stated that it was of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act **required further consideration and amendment** in order to constitute a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 5.1.3. In the opinion of An Bord Pleanála, the following issue needed to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

### Appropriate Assessment

Further consideration of the documentation as it relates to the requirements of Article 6 of the Habitats Directive and Natura 2000 sites. The documentation should include an appropriate assessment screening report and, if the applicant considers that the proposed development is likely to have a significant effect on any Natura 2000 site, a Natura Impact Statement. The documentation should include the specific information regarding the application site, its circumstances, the proposed development and the Natura 2000 network that is necessary to apply the tests for screening and/or appropriate assessment that are set out in legislation and case law. The information should address the proposed works to roads as well as the proposed housing. Irrelevant or repetitive information or that of an administrative nature only should not be included. The information should be set out clearly and precisely and should provide an objective basis for any stated conclusions.

### DMURS

- 5.1.4. Further consideration of the documentation as it relates to compliance with the applicable standards set out in DMURS and the National Cycle Manual. Assertions

of compliance with general principles are insufficient in this regard. The documentation should demonstrate compliance with specific requirements, including:

- The requirement for permeable street networks under section 3 of DMURS, including the advice against cul-de-sacs in section 3.3.1 and on block sizes in section 3.3.2. The treatment of the Forest Road and the limited number of junctions upon it should be revisited in this regard, as should the potential for permeability with future development on the neighbouring land to the east. The advice against large roundabouts in urban areas stated at section 4.4.3 should be respected.
- The advice against shared pedestrian and cycle facilities at section 1.9.3 of the National Cycle Manual; the specifications for cycle tracks and lanes at section 4.3; the advice regarding the treatment of cyclists at major junctions throughout section 4; the requirement for priority of cycle tracks/lanes over minor roads at priority junctions set out in section 4.9; and the construction details for cycle tracks at section 5.6.

5.1.5. The prospective applicant was notified that the following specific information should be submitted with any application for permission:

- A transport impact assessment report that describes the likely impact of the proposed development on the surrounding area and its transport infrastructure. In particular the report should address the potential impact on the Metrolink and BusConnects projects and the Cycle Network Plan for the Greater Dublin Area. The report should also give an account of consultations with the NTA and TII.
- A housing quality assessment which provides the specific information regarding the proposed apartments required by the 2018 Guidelines on Design Standards for New Apartments. The assessment should also demonstrate how the proposed apartments comply with the various requirements of those guidelines, including its specific planning policy requirements.
- A report demonstrating compliance with the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the minister in December 2018 in accordance with SPPR3 of those guidelines



- An analysis of the daylight and sunlight that would be available to dwellings and open spaces with reference to the BRE guidance on the subject.
- A phasing scheme for the development which would indicate how open space and access for the proposed housing would be provided in a timely and orderly manner.
- A Site Specific Flood Risk Assessment Report. The prospective applicant is advised to consult with the relevant technical section of the planning authority prior to the completion of this report which should describe this consultation and clarify if there are any outstanding matters on which agreement has not been reached with regard to surface water drainage.
- Details of the finishes and materials on the proposed buildings, and of proposed boundary and surface treatments and landscaping throughout the development.
- A draft construction management plan
- A draft waste management plan.

## 5.2. Applicant's Statement

- 5.2.1. The application includes a statement of response to the pre-application consultation (Response to the Opinion), as provided for under section 8(1)(iv) of the Act of 2016, which may be summarised as follows:

### Item 1 – Appropriate Assessment

- 5.2.2. The subject site is not proximate to any SPA or SAC, however, nine SACs and eight SPAs are located within the precautionary zone of influence (15km distance radius).
- 5.2.3. The Appropriate Assessment Screening Report notes that there will be no likely significant negative impacts caused to any Natura 2000 sites as a result of the Proposed Development.

### Item 2 – DMURS/National Cycle Manual

- 5.2.4. DMURs Compliance Statement submitted.

### Response to Specific Information

- 5.2.5. The applicant has responded to each item of Specific Information as detailed in the Response to the Opinion.

## Material Contravention Statement

- 5.2.6. The applicant has submitted a Material Contravention Statement which considers the following matters:

### Building Height Policy

- 5.2.7. Under the Swords Objectives set out in Chapter 4 of the Fingal Development Plan the main elements to be included in a number of the key Masterplans are provided. For the Fosterstown Masterplan the following item is listed including *inter alia* in order to protect existing residential amenities, where development immediately adjoins existing residential development, the heights of such development shall be restricted to 2-3 storeys.
- 5.2.8. Of the above listed objectives for Fosterstown Masterplan it is the applicant's contention that the sole objective where the proposed development is not consistent with is in respect of building heights, particularly along the Forest Road.

### Car Parking Standards

- 5.2.9. The applicants state that the non-compliance with car parking standards as set out with the Development Plan may be considered a Material Contravention of the Plan.
- 5.2.10. The Material Contravention Statement concludes the following:
- The current limitation of building height as set out in the Development Plan is inconsistent with the Building Height Guidelines, as higher density development cannot be achieved without the provision of taller buildings at appropriate locations within suitable areas.
  - The proposal meets all criteria outlined in National planning policy and S.28 Guidelines, particularly the Building Height Guidelines 2018, in terms of suitability for high density development incorporating taller buildings. The site is located adjacent to a high quality public transport corridor, located within a Masterplan area in close proximity to Swords town.
  - The proposed car parking (0.74 ratio) is consistent with the Apartment Guidelines 2018 which allows for a reduced car parking standard in large scale and higher density developments comprising wholly of apartment in central/accessible areas. The subject site is located adjacent to both existing and planned high quality public transport networks.

## 6.0 Relevant Planning Policy

### 6.1. National Policy

#### Project Ireland 2040 - National Planning Framework

The National Planning Framework includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

#### Section 28 Ministerial Guidelines

Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (December 2020)
- Urban Development and Building Height, Guidelines for Planning Authorities (2018)
- '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' (DMURS) (2019) / DMURS Interim Advice Note – Covid 19 (2020)
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') (2009)
- Architectural Heritage Protection- Guidelines for Planning Authorities (2011)
- Childcare Facilities – Guidelines for Planning Authorities (2001)

Other relevant national guidelines include:



- Framework and Principles for the Protection of the Archaeological Heritage  
Department of Arts, Heritage, Gaeltacht and the Islands 1999.

## 6.2. Regional Policy

### Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

- RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.
- RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.

The site lies within the Dublin Metropolitan Area (DMA) – The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas identified in the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development lands to support Dublin's sustainable growth.

Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.

## 6.3. Local Policy

### Fingal County Development Plan 2017-2023

- 6.3.1. The site is zoned for residential development under the RA (Residential Area) objective of the Fingal County Development Plan 2017-2023 with the objective to

'provide for new residential communities subject to the provision of the necessary social and physical infrastructure'.

- 6.3.2. Chapter 2 relates to the Core Strategy and Settlement Strategy. Swords is at the top of the county settlement hierarchy and is designated as a Metropolitan Consolidation Town, along with Blanchardstown.

Objective SS01 applies:

*Consolidate the vast majority of the County's future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the hinterland to towns and villages, as advocated by national and regional planning guidance.*

Also Objective SS12:

*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.*

Objectives SS15 – consolidate urban areas through infill and brownfield redevelopment; Objective SS16 – Examine possibilities of higher densities in urban areas adjoining Dublin City.

- 6.3.3. Chapter 3 relates to Placemaking. Development Plan section 3.4 sets out design criteria for residential development.

Objectives of particular relevance include;

Objective PM31 – Promotes high quality environments; Objective PM32 – have regard to DMURS; Objective PM37: Ensure an holistic approach, which incorporates the provision of essential and appropriate facilities, amenities and services, is taken in the design and planning of new residential areas, so as to ensure that viable sustainable communities emerge and grow; Objective PM38 Achieve an appropriate dwelling mix, size, type, tenure in all new residential developments; Objective PM39: Ensure consolidated development in Fingal by facilitating residential development in existing urban and village locations; Objective PM40: Ensure a mix and range of housing types are provided in all residential areas to meet the diverse needs of residents; Objective PM41:



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; Objective PM44: Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected; PM52 – minimum open space provision of 2.5ha per 1000 population;

- 6.3.4. Chapter 4 relates to Urban Fingal. The following development plan objectives relating to Swords are noted:

Objective SWORDS 2:

Retain the Main Street as the core of the town centre, protect and enhance its character and ensure that any future new commercial and retail development reinforces its role as the core area of the town centre, by promoting the development of active ground floor uses and limiting the expansion of certain non-retail and inactive street frontages including financial institutions, betting offices, public houses and take aways/fast food outlets.

Objective SWORDS 4:

Promote the development of lands within Swords town centre in accordance with the principles and guidance laid down in the Swords Master Plan (January 2009).

Objective SWORDS 6 of the plan refers to the provision of a new road to from the Dublin Road to the Forest Road.

Objective SWORDS 11:

Provide for a comprehensive network of pedestrian and cycle ways, linking housing to commercial areas, to the town centre and to Metro stops and linking the three water bodies (the Ward River Valley, the Broadmeadow River Valley and the Estuary) to each other subject to Screening for Appropriate Assessment if required.

Objective SWORDS 12:

Develop a 'green necklace' of open spaces which are linked to each other and to the existing town centre of Swords, as well as to new development areas, thus promoting enhanced physical and visual connections to the Ward River Valley Park and the Broadmeadow River.

## Objective SWORDS 15:

Develop an appropriate entrance to the Ward River Valley from the town of Swords so that access to the amenities of the valley is freely and conveniently available to the people of Swords.

Objective SWORDS 27 refers to a requirement for a masterplan for development at Fosterstown. The following objectives are set out for the Fosterstown Masterplan:

- Provide for required road improvements including: the construction of the Fosterstown Link Road; realignment and improvements to the Forrest Road and improvements to the R132 (including Pinnock Hill) as part of the phased development of the Masterplan Lands.
- Provide for a vehicular connection to the adjoining MC zoned lands to the north.
- In order to protect existing residential amenities, where development immediately adjoins existing residential development, the heights of such development shall be restricted to 2-3 storeys.
- Future development shall provide a strong urban edge with attractive elevations which satisfactorily address, overlook and provide a high degree of informal supervision of the R132, the Forrest Road and the Fosterstown Link Road.
- Consider the provision of a hotel at a suitable location at Cremona within the Fosterstown Masterplan Lands.
- Facilitate the indicative route for new Metro North through these lands and an appropriate relationship with the indicative route for new Metro North at this location.
- The existing stream which crosses the lands shall be maintained within a riparian corridor.
- The majority of the public open space shall be provided along the stream and it shall link into the existing public open space at Boroimhe.

6.3.5. Chapter 12 Development Management Standards includes standards for residential developments and parking provision.

### **Swords Masterplans (including the Masterplan for Fosterstown)**

6.3.6. This was adopted in May 2019. This is a non-statutory document which has been prepared in response to objectives in the Fingal Development Plan 2017 - 2023. The Masterplans have been prepared concurrently and the documents have been prepared with a single 'front-end' document (Part A) that sets out the context for the Masterplans and largely focuses on Swords more broadly. Parts B, C, & D present the proposals for each of the Masterplan areas. Part C relates to Fosterstown. The 'Key Principles' contained in Part A apply across all of the Masterplan areas. Each Masterplan then contains Objectives for the Masterplan area, stemming from the overarching Key Principles. Part E contains the appendices.

6.3.7. Part C Fosterstown Masterplan provides a layout for development on lands with the Fosterstown Masterplan area, including the current site, with a new road linking an upgraded junction at Pinnock Hill to an upgraded Forest Road, as well as a linear open space along the stream and a site for a primary school in the south-western part of the site. The Masterplan specifies that net densities should be between 105-155 dph and there should be a mix of building types and heights, with 2 and 3 storey houses along the Forest Road and beside existing houses at Boroimhe Willows. It is also an objective to provide a strong urban edge to the R132 to the north of the site, where taller development, ranging from 5 - 9 storeys will be supported. Figure 6.2 'Height Objectives' of the Plan gives a visual representation of the height objectives with the highest element (9 storeys) to the north-east of the Masterplan Lands, adjacent to the R132. A phasing scheme is set out which states that development is contingent upon the provision of infrastructure including the link road, junction upgrade and school site. It specifies that 24% of the area could be developed for 260 homes before the Metro is provided.

## 7.0 **Observer Submissions**

7.1.1. 181 no. submissions on the application have been received from the parties as detailed above. The issues raised are summarised below.

### Principle

- Concerned at what is to follow in subsequent phases.
- Proposed development contravenes Fingal County Development Plan and Fosterstown Masterplan.



- Full cognisance should be taken of the LAPs and Development Plans
- This development cannot be compared to the development in Omni Park.
- Recommended densities in the Fosterstown Masterplan is between 105 and 115 units/ha –this is not in the Material Contravention Statement.
- Swords Masterplan must be adhered to with regard to land use, open space, transport and movement, green infrastructure, typologies and densities, heights, and interface area.
- All objectives in the Masterplan were agreed by elected councillors
- Would make more sense for Phase 1 to be moved south-built alongside the dual carriageway/R132 – Additional Phases will have higher buildings due to precedent being set here
- No acceptable or justifiable reasons have been put forward for the material contravention of the CDP
- Masterplan was only agreed after a long public participation process and a vote by elected representatives.
- No attempt to justify how the proposed development complies with the stated vision of the zoning objective.
- Proposed development would be in material contravention of the residential zoning of the area and should be refused permission.
- Phasing of the development should be reconfigured towards direct access from the R132
- Any permission at Fosterstown will set a precedent for the future development of the town larger Swords Sites
- Boraimhe or Glen Ellen/Applewood form a better model for developing Fosterstown.
- A material breach of Development Plan should only be allowed where there are compelling justification reasons and where there are no negative effects on existing properties. This is not the case with this application.

- Masterplan went through a public consultation process and passed by locally elected Councillors.
- Board cannot allow any proposed development to be agreed that is in contravention of the Masterplan.

#### Design/Density/Visual Impact

- Scale, design, heights and massing would be an incongruous eyesore
- 'Urban Edge' would be more appropriate along the R132.
- New development must respect the transient nature of the area.
- No setback from the public road.
- Fingal have reiterated the need for 2/3 storey dwellings along the Forest Road.
- Height objective of the Fosterstown Masterplan is exceeded
- No precedence for a 9 storey structure
- Height is not in keeping with the area.
- Will tower over existing housing estates
- Does not provide a visual impact assessment from Hawthorn Park
- Density is excessive
- Proposal will be higher than the Premier Inn Hotel
- Is not an urban site
- Increased housing can be provided on the site without constructing one of the tallest buildings in Swords.
- Look of the proposed development is more in keeping with an office development than a housing development
- No height that exceeds the Masterplan Height should be approved.
- The height limitation is not only stated in the Masterplan it is also stated in the Fingal Development Plan.
- Ample scope to provide high rise development towards the R132



- Attempting to use precedent set by other developments on national roads (Omni, Santry) to argue for heights on rural roads.
- Net density is not specified/density is manipulated
- Net densities of 105-115 should only be allowed in the Masterplan
- Over 1/3 of the site cannot be developed – in reality there is 278 units on 1.86 ha/not statement that it materially contravenes the Masterplan in terms of densities
- Net density is stated as 150 units /ha
- A 7 storey block is equivalent to the Pavilions Shopping Centre/~~this is an eyesore~~ and not in keeping with the existing adjacent developments.
- Balconies will be unsightly
- CGI images are not accurate/are distorted
- Quality materials should be used
- Forest Road frontage is not an urban centre ~~but is a suburban area/excessive building height cannot be justified solely by availability at a distance of public transport.~~
- Dominant visual impact ~~of the development/would have been ameliorated if a wider green buffer zoned was designed between the frontage development and Forest Road.~~
- Photomontage ~~views~~ minimise the visual perception of the mass, length and height of these blocks.
- ~~Will totally dominate~~ the skyline and landscape
- ~~Many~~ views included are irrelevant/relevant views are buried in a forest of trees
- No views from Hawthorn Park, Oulart, or River Valley Grove pedestrian link to the Forest Road

#### Transport

- Neither Metrolink or Bus Connects are in place/May be delayed
- Car parking provision is seriously deficient

- Public transport is not suitable for everyone
- Existing traffic congestion.
- Pedestrian walkway and cycle path inside the hedgerow would make for a much more pleasant, safer and enjoyable journey.
- Pedestrian safety during construction phases.
- Parking ratio is less than 1 per unit/ contravenes parking standards set out by FCC
- Likely to result in residents parking on surrounding streets
- Need more charging points
- Should be contingent on Metrolink going ahead.
- Infrastructure upgrades are required including the Forest Road, Link Roads, Public Transport Including Bus Connects and Metro-link
- Traffic Impact Assessment – more time needed to assess findings
- Insufficient transport infrastructure
- No timeline for vehicular access from the R132 to the Forest Road
- Developer does not state when they will complete the Link Road for vehicular access on the R132 road
- All traffic will be channelled onto the Forest Road.
- Parking in adjacent estates
- Does not meet Development Plan Parking Standards.
- Cycling to the city centre is not an option
- No public transport to the majority of the big business parks in Dublin
- Bus journey from Sword to City Centre takes more than 50 minutes
- Proposed entrance should be off the R132 not the Forest Road
- Existing entrance to Hawthorn Park is already a traffic hazard
- Does not make sense to have a separate junction 40m from another main junction

- Other developments built by this developer, including the Ridgewood Estate, have failed to provide the infrastructure required.
- Forest Road not designed for heavy traffic
- Dublin Bus and Swords Express Buses unable to travel down this road.
- At the Oral Hearing for the 2<sup>nd</sup> Dublin Airport Runway application, it was noted that the Forest Road should be upgraded – this was not done.
- Area needs wider and safer footpaths along Forest Roads
- Through road should be lined up with the already signalled River Valley junction (less than 150m away)
- Paths and cycleways proposed are not up to the requirements of the Masterplan.
- Junction designed for Block A would be much better suited 50m north of this site where it would meet up with the current junction at Rivervalley/makes very little sense to have two junctions in such close proximity
- A total of 413 car parking spaces should be provided for this development.
- Existing footpath is inadequate
- Object to access points through to Boroimhe Willows/Boroimhe Oaks
- Additional link would result in traffic accidents
- Drivers will bypass the R132 and use the Forest Road instead
- New bus stops may cause congestion
- Traffic Impact Assessment – Page 7 states that the surveys took place on Thursday 27<sup>th</sup> February 2020 – Appendix A states that the survey took place on 28<sup>th</sup> May 2019
- Travelling 5.9km to Malahide Rail Station is not a viable option.
- A traffic mobility plan need to be in place prior to the development
- Development of the application lands must be contingent on access to the R132 at Pinnock Hill/on development of Metrolink/Buslink services/Development is premature

- Provision of a signalised junction at the intersection of the Forest Road/Fosterstown Link Road will not resolve capacity issues as exist on the Forest Road/proposed improvements will not increase the carrying capacity of Forest Road
- Location of the crèche at the junction will give rise to a risk of drop up and pick up at this location.
- Construction traffic should only be allowed access directly from the R132

#### Development Standards/Mix

- Should be an appropriate mix of dwelling types.
- Families would be more inclined to choose a house with a garden rather than an apartment
- Already sufficient apartments in Swords.
- Proportion of one beds is too high
- Insufficient mix
- Too many 1 beds
- Loss of green space.
- Not big enough for families
- Only 7 no. 3 beds in phase 1.
- No 2 or 3 storey housing units provided.
- Development is not suitable for family living
- 1 bed apartments are not conducive for home working
- A residential development is welcomed/family housing is needed in Swords
- Mix of units is not in compliance with the Masterplan
- Most appropriate way to address an imbalance would be to create appropriate housing for young families
- Units are unattractive for downsizing/units are small
- Lack of real understanding of the housing need for the area



- This was one of the few parts of the landholding that was specifically not to be apartments
- Insufficient grass areas within the proposed plans
- Mix of house types should be provided
- Green area in Hawthorn Park will be utilised by occupiers of this development
- Current Masterplan has a specific unit mix

#### Impacts on Surrounding Amenity

- Across the road from existing two storey and single storey dwellings
- Injurious the amenities of residents by way of overlooking and overshadowing.
- Separation distances are insufficient.
- Noise pollution levels.
- Is 26m from a property in Hawthorn Park
- Blocks A to B is 18m distance.
- Will result in overshadowing/loss of daylight
- 1 Hawthorn Park will be overshadowed by the development
- Photomontage is not accurate/would cast a larger shadow
- Impact on houses in Boroimhe Willows
- Impact on Hawthorn Park
- Will overlook Hawthorn Park and other estates
- Smells/Odour
- Location is wrong for residents and the local area
- Adjacent areas are zoned to protect and improve residential amenity
- Proposal will seriously injure the residential amenities of existing residents in the area.
- Houses to the west of the Forest Road (River Valley, Hawthorn Park, Oulart, The Nurseries, Boru Court) and their amenity spaces will directly overlooked

- Overlooking between Block A and Block B
- Removal of existing hedge on the eastern side of Forest Road will lead to loss of privacy
- Separation distances across Forest Road are reduced as a result of the balconies
- Loss of daylight and sunlight/overshadowing
- All houses within 150 m of the blocks will be within morning shadow
- 3D Design Study does not consider the impact on all properties
- ABP should commission its own study of how the west side of the Forest Road will lose all winter morning sun.
- Consideration must be given to neighbouring estates in relation to height of new buildings in order to ensure no overlooking of existing housing.

#### Environmental Impacts/Flooding

- Project splitting
- Inspector's report 304904-19 – reference is made to project splitting
- Existing hedgerows, tree lines and stream provide habitats for species.
- No EIAR report on the application website
- Not possible to formulate an opinion on the possible impacts.
- Impact on Trees
- Impact on wildlife
- Impact on wildlife including pinemartins, red squirrels, hedgehogs, bats, badgers, birds and wild hare
- Protection of native trees under the forestry act of 2014
- Not clear that the proposal on its own or in tandem with future phases would not lead to flood risk on the site, on adjoining lands or further downstream.
- Regard should be had to the Malahide Estuary SPA and SAC.
- Impact on the Gaybrook Stream.

- Flooding – no mention of river or stream which is piped under Bormimhe in the FRA/Creation of potential flood risk by opening this pipe/report states there is a high risk of surcharge/development will lead to flooding
- Forest Road has been flooding on a regular basis due to burst water mains
- Will the existing infrastructure be adequate to deal with all these apartments?
- Main sewer on Forest Road has overflowed on many occasions
- Climate change will increase the likelihood of large one-off rain events

#### Social Infrastructure

- A school must be included in Phase 1 as stipulated in the Masterplan.
- Measurements in the community audit are inaccurate.
- No community centre is muted for the area
- A National school and playing fields should be provided.
- Community Audit does not mention St. Finians GAA club
- Very limited pitch facilities
- Increase in population impact the ability of St. Finians GAA club to provide services successfully if the facilities aren't provided within the development
- There is a waiting list for schools
- Temporary school operating in a totally inappropriate car park site on the Dublin Road
- Creche should not be removed at a later date
- Need land set aside for local clubs such as St. Finian's GAA and River Valley Rangers Soccer Club
- Nearest school is 1.1km from the siter
- School is not mentioned in the material contravention report.
- Have asked the Minister for Education to clarify the Dept of Educations opinion that no school is needed in this area

- Rivervalley Community School is currently seeking a permanent location/this should be zoned and built in Fosterstown
- This developer has built over 1,650 units over 7 phases at the other end of Forest Road with no need schools or appropriate road, water and cycling infrastructure – this is not sustainable.
- Sports clubs identified in the community audit are not local sports clubs – does not mention St. Finians GAA Club and Rivervalley Rangers – these are the most local clubs
- Fails to mention that sports clubs are oversubscribed and crying out for facilities
- Lack of amenities for children/adults such as schools, playgrounds, football pitches, community centre, crèche and retail space.
- No anchor tenant for the retail outlets/small retail outlets doomed to fail/boarded up units will be an eyesore
- Lack of sports pitches and lands for active play in the town.
- No permission should be granted which would jeopardise the provision of the new school.

#### Other Issues

- Noise impacts from the airport – within Noise Zone C
- Urge a significant revaluation of the proposed site along with an oral hearing.
- Newspaper notice was not published in a newspaper that circulates in the area.
- Website was not live for a number of weeks after the Planning Application was submitted.
- Was not displayed on the ABP website until three weeks after the planning application was lodged.
- Does not address roads and sewerage infrastructure.
- Development should be refused.
- Falls into the category of student accommodation.
- Will lead to antisocial behaviour.



- Insufficient medical facilities.
- No new industrial area is planned for Swords.
- Site notice should have been erected on the entrance to Cremona House and on the entrances to the land from the R132
- SHD process is undemocratic
- Consultation mechanism/lack of online submissions/is not appropriate during a pandemic
- Existing infrastructure and water supply issues
- Will end up being rented
- Does not specify if the units are to be used for Student Accommodation
- Does not meet the definition of SHD
- Cover letter should have stated the site is within the Fosterstown Masterplan Area.
- Consultation period should have been frozen/many residents don't have printing capacity
- Site notice put in dangerous or obscure places
- Increase in antisocial behaviour
- Impact on flights/Dublin Airport
- Fire safety considerations/is the outside cladding sufficiently retardant?
- Do the plans include the construction of solar panels/wind turbines?
- Many errors within the application documents

## 8.0 Planning Authority Submission

8.1. Fingal County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i). The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows.

Section 2.2 sets out the Policy Context and there is commentary from the PA in this section in relation to compliance, or otherwise, with relevant National and Regional Policy – which I have summarised below.

- NPF – there is a concern that the proposed development does not adequately support placemaking.

#### Building Height Guidelines

- Proposed development should not rely on SPPR 2 as the scheme cannot be considered mixed use.
- Fosterstown Masterplan 2019 promotes a greater mix of use and increased height that has regard to the 2018 Guidelines in a more appropriate location towards the east of the applicant's land-holding.
- Proposal fails to demonstrate compliance with SPPR 2 including *inter alia*
  - Proposal fails to successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context.
  - Make a positive contribution to placemaking
  - Respond to its overall natural and built environment
  - Enhance the urban design context for public spaces and key thoroughfares
  - Positively contribute to the mix of uses
  - Access to natural daylight, ventilation and views/minimise overshadowing and loss of light.
- Proposal is contrary to the recently published Fosterstown Masterplan (May 2019) that has had regard to and incorporated Section 28 Guidelines (Urban Development and Building Height Guidelines 2018).

#### Design Manual for Urban Roads and Streets (2013)

- Proposal doesn't promote higher levels of permeability and legibility for all users, and in particular, more sustainable forms of transport.

- Block B is an unbroken, monolithic 5-storey block along the eastern side of Forest Road – large block (c100m) exceeds the 60-80m block size that is optimal for pedestrian movement.
- Opportunities to create new/improved pedestrian environment allowing for the distinct separation of footpaths and cycleways
- Opportunity is lost along the western side of Forest Road and the northern side of the new link road
- Footpaths disappear in places/numerous cases of unsafe parking arrangements along the spine road and parking area to the south
- Poorly planned parking at the crèche that require reversing manoeuvres

#### Fingal Development Plan 2017-2023

- Principle of development is acceptable having regard to the zoning objective.
- The development of the site substantially complies with the core and settlement strategy
- Board should consider the capacity of the receiving environment to sustainably service the cumulative growth and infrastructure needed to facilitate same.
- Board's attention is drawn to the Fosterstown Masterplan 2019 – which sets out the development of this land bank (13.14Ha) in a phased manner i.e. in tandem with infrastructure)
- Proposed development seeks to develop 278 no. residential units on c18% of the Masterplan's entire area (this also exceeds the entire Masterplan's Phase 1 residential component) with only portion of the transport infrastructure upgrades and no provision of a local school.
- Masterplan has envisaged a lower density closer to Forest Road, rising in height and density with the dropping site elevation towards the east/R132
- Subject site onto Forest Road is highly sensitive and as a result significantly constrained by its ability to absorb increases in height



- Consideration must be given to the 'Cremona' House to the north-west of the site which has been identified by the Conservation Officer who indicates that it is of significance
- Regard must be had to the local context and how the proposed development would relate to the surrounding character, topography, established setting of the surrounding residential area and setting of the adjacent 'Cremona' House.
- The height of the proposed apartments, specifically the 6 and 5 storey elements, would contravene the Fosterstown Masterplan 2019 and the Development Plan.

#### Design and Layout

- Three blocks appear to include largely unenclosed galvanised steel balconies which provide little shelter to the occupants of the units.
- If permission granted – recommended that the proposed external finishes be addressed by way of condition, the use of a greater variety of colour and height be considered, and the splitting or shortening of the largest block/darker brick should only be used sparingly.

#### Mix

- The mix between 1 and 3 bed units is unbalanced/Board should consider the nature of the established residential character of the area/desire for higher densities and apartment living/likely need for more suitable family accommodation.

#### Development Standards

- Insufficient separation between blocks/below the required 22m
- There is only 23m between Block A and No.1 Hawthorn Park/approx 20 m between Block A and the boundary wall of No. 1 Hawthorn Park/this is not shown in the statement of consistency
- Quality of light within the courtyard space.
- Level of light to the apartments and open spaces
- The proposed building heights require increased separation distances to avoid the perception of overbearing impact and the creation of an unpleasant tunnel



effect, specifically within the communal courtyard area and also along Forest Road.

- Level of dual aspect acceptable.
- A number of apts fails to achieve their target value for ADF and two others are bordering
- Drop of up to 20% at the windows of No. 1 Hawthorn Park
- Noise issues could be dealt with by way of condition.
- A number of apartment only meet the minimum requirements.
- Approx. 53 apartments do not exceed the minimum floor areas by at least 10%

#### Community/Creche

- Proposed siting on the corner site (likely to lead to opportunistic parking near the proposed junction with Forest Road) and absent parking provision for staff and poor hazardous set down parking (see above section) make it impractical.
- Lack of school places need to be addressed.
- Non provision of a primary school during the first phase of development does not comply with Fosterstown Masterplan

#### Transportation

- Strategic importance of the Fosterstown Link Road means that this development will have a broader negative impact on the Swords area.
- Notable issues include:
  - The scheme being limited to one access to Forest Road/secondary access should be provided to facilitate emergency access.
  - Absence of turning lands from and to Forest Road (requiring the widening of both Forest Road and the link road)
  - The change to the new Fosterstown Access Road to Pinnock Hill (currently being redesigned by the NTA) – this has implications for the design of the pedestrian and cycle link /should be amended to conform with the final alignment of the link road tying into the future junction design.

- Noted that the NTA's R132 connectivity project is open for non-statutory consultation. This upgrade does not include Pinnock Hill Roundabout or the Fosterstown Access Road.
- Proposed surface parking on the spine and cul-de-sac roads is substandard and not in accordance with DMURS guidance/Homezones are dominated by parking/designation is incorrect/greater proportion of car parking should be at podium level or at basement level.
- Proposed cycleways on the proposed Link Road are not in accordance with best practice of the National Cycle Manual/consistent with standard employed throughout the country/southern cycle lane should be provided as an off-road facility in line with best practice of the National Cycle Manual.
- Submission from the Department of Culture, Heritage and the Gaeltacht that the hedgerow along the Forest Road on the western boundary of the development site should be retained and the foot and cycle paths to be constructed along this road are built behind the hedgerow – this would require an overall redesign of the proposed development
- The quantum of parking is 214 spaces below development plan standards
- Concern in relation to overspill parking
- Requests ABP takes into account the nature of the area/retrofitting a parking solution is not always possible
- Parking demand of 413 spaces/minimum standard of 285 spaces/only 206 spaces proposed
- Minimum requirement of 285 residential spaces and 11 spaces for crèche/PA will consider a min of 1 space per unit.
- Would be a parking demand of up to 7 staff parking spaces/should be at least 8 set down spaces/set down area for the crèche is unacceptable/reversing manoeuvres/should facilitate drop off on the same side of the road as crèche building/should be parallel parking with a circulation lane to avoid reverse manoeuvres/unclear where, if any, staff parking is located.

- Insufficient cycle parking – 201 below the required standard/lack of detail of same/Location on street is unacceptable/not in line with National Cycle Manual
- No structural plan of the basement layout has been provided/design of the basement carparking is substandard/location of the cycle storage areas is not acceptable/should be designed in accordance with the latest relevant standards.
- No swept path analysis for bin trucks/emergency vehicles and difficult to access car parking spaces has been provided/no EV charging points or car club spaces have been identified.
- Traffic and Transport Assessment is generally acceptable to the Transportation Planning Section.
- A taking in charge drawing for the public open space between the entrance driveway and the school sportsgrounds with defined boundaries (fence lines and driveway/path is required.
- A construction and demolition waste management plan is required.
- A revised traffic management plan is proposed to be agreed with the Planning Authority prior to commencement on site.
- Board should be aware of the constraints of the Forest Road and the logic of upgrading the transport network prior to the development of the site/cumulative level of construction traffic/ongoing projects to improve the transport network in the area.
- Detailed CEMP required prior to the commencement of construction.
- Transportation Planning Section consider there are too many issues to be addressed by way of condition and the proposal development should be refused.

#### Water Services

- FRA assessment is acceptable.
- No information on where attenuation will be provided for future phases.
- Preferable to see attenuation situated in an area that will not require future disturbance.



- Surface water management should be self-contained within each phases/or fit within an overall surface water masterplan for the entire site/proposal fails to achieve either/underground storage should be avoided.
- Additional information on SuDS features is required/additional SUDs measures required.
- Refer to submissions that the main sewer along Forest Road has overflowed on a numerous occasions – suggests more serious constraints in the area.

#### Part V

- Applicant is required to make contact with the housing department with a view to negotiating the Part V agreement.

#### Parks/Open Space

- Lack of public open space is striking in this development/layout of the proposed areas of open space including a temporary open space flanked by car parking is poor
- Play provision will lead to noise nuisance.
- A townland boundary is proposed to be removed along Forest Road contrary to Development Plan Objective DMS80.
- No public open space is proposed to be provided/riparian strips are not counted as public open space under Development Plan policy.
- The temporary open space should be provided as a permanent amenity to the public/proposed play facilities should be located here.
- Conditions are recommended.

8.1.1. Section 2.2.3.3 of the Chief Executive's Report responds to the applicant's statement of consistency. In summary this sets out:

- No arterial link between Forest Road and R132/poor interpretation of home zones.
- Exceeds net density of 105-115 units per hectare
- Mix of units – the 7 no. 3 bed units only account for 2.5% of bedroom units.



- Height – 5-6 storeys adjoining residential development along Forest Road. Proposal is a Material Contravention of the Fingal County Development Plan.
- Reference is made to Section 2.11 of the Urban Development and Building Height Guidelines for Planning Authorities, 2018
- Fosterstown has been identified as a location for comprehensive urban development/redevelopment following the appropriate master-planning exercise in conjunction with the residents of Swords and elected Members/establishment of an agreed local planning framework within which to manage development and facilitate higher density sustainable development.
- Proposed development does not satisfy development management criteria within the guidelines/will not ensure the creation of a strong neighbourhood identity/will not protect residential amenities/does not provide justification for a material contravention of the Fingal Development Plan.

#### Fosterstown Masterplan

- Proposals do not meet with the principles contained within the masterplan.

#### EIAR

- Noted that the applicant plans to develop at least 720 no. more units within their portion of the Fosterstown Masterplan 2019 – considering these developments separately may be considered project splitting.
- Applicant does not adequately consider the impacts on Population & Human Health in relation to changes in living conditions/nearby residents living in proximity to Forest Road will suffer more than just possible short-term nuisances.

#### Conclusion

- Fosterstown Master Plan recently published/has the benefit of public consultation with Councillors and public/consistent with the most recent National, Regional and Local policy as well as Section 28 Ministerial Guidelines.
- PA consider the proposal is a material contravention of *inter alia* Objectives SWORDS 6, SWORDS 7, PM14 AND PM15 of the Fingal Development Plan 2017-2023 along with associated descriptive policy contained within the text of PM15 regarding the Fosterstown Masterplan and does not comply with the

Fosterstown Masterplan (May 2019) with regards to height, density, phasing and the associated improvement to infrastructure

- Proposed heights along the western side of the site in close proximity to established residential neighbourhoods would have detrimental impacts to residential amenity and would be visually incongruous within the area.

8.1.2. Section 3 sets out the Council's statement in accordance with Section 8(5)(b)(ii) of the Planning and Development (Housing) and Residential Tenancies Act 2016. This is summarised below.

- Proposed uses are acceptable in principle.
- Development is considered to be a material contravention of the Fingal Development Plan 2017-2023 and the Fosterstown Masterplan (May 2019) – proposal exceeds the height and density agreed in the published Fosterstown Masterplan (May 2019)
- The development is substandard with respect to DMURS and National Cycle Manual Undermines plans to upgrade transport and community infrastructure
- Seriously injures the residential and visual amenities of the area by virtue of its layout and the incongruous design, overbearance, overlooking and would be contrary to the objectives of the Fingal Development Plan
- Substandard in respect to urban design, placemaking and residential development
- Does not achieve the objectives contained in the National Planning Framework, RSES and relevant Section 28 Guidelines, with specific reference to SPPR 2 and the development management criteria contained in the Building Height Guidelines, the Sustainable Residential Development in Urban Areas and Urban Design Manual A Best Practice Guide.
- Considered the proposed development, by reason of the height, density, phasing and the associated improvements to infrastructure (most notably transport and community/education) would seriously undermine the local planning process and would be contrary to the Fingal Development Plan 2017-2023, Fosterstown Masterplan (May 2019) and therefore the proposed development would be contrary to the proper planning and development of the area.

## Recommendation

That permission is **refused** for the following reasons:

1. The proposed development is considered to be a material contravention of the Fingal Development Plan 2017-2023 (i.e. Objectives SWORDS 6, SWORDS 7, PM14 and PM15) and does not comply with the Fosterstown Masterplan (May 2019) with reference to the protection of existing residential amenities, where development immediately adjoins existing residential development, the heights of such development shall be restricted to 2-3 storeys. The overall proposal is also contrary to the height, density, essential infrastructure provisions and agreed phasing in the published Fosterstown Masterplan (May 2019) and, therefore, the proposed development in its current form would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the core principles for delivery of housing and National Policy Objective 4 of the National Planning Framework which seek to deliver future environmentally and socially sustainable housing of a high standard for future residents and to ensure the creation of high quality urban places, to the Fingal Council Development Plan 2017-2023 which promotes excellences in urban design responses and the promotion of high quality, well designed entries into towns and villages, to the Design Manual for Urban Roads and Streets (2013), to the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities and Urban Design Manual A Best Practice Guide (2009) and to the Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities 2019 it is considered the proposed development by virtue of:
  - The layout of the proposed development which is predicated on limited vehicular connections to the surrounding area and cul de sac;
  - The extensive areas of substandard surface and semi-basement car and bicycle parking within the development;
  - The scale, design and massing of the proposed dwellings and apartments; and,
  - The absence of distinguishable character areas in the scheme;



Does not represent a satisfactory urban and architectural design response for the suite, is unsympathetic to the character of the area and the Fosterstown Environs, would be contrary to the aforementioned policy documents and would therefore be contrary to the proper planning and sustainable development of the area.

3. The open space serving the proposed development, by virtue of the deficiency in usable spaces provided, the temporary nature of the unprotected public open space bounded by the proposed Fosterstown Access Road/Spine Road and the absence of sufficient play space to serve the community in the proposed development, is contrary to the quantitative and qualitative standards for open space set out in the Fingal Development Plan 2017-2023 (Table 12.5 Open Space Hierarchy and Accessibility), would fail to provide a satisfactory level of amenity for residents of the proposed development and would, therefore, be contrary to the proper planning and sustainable development of the area.

4. The layout of the proposed development, with 5 and 6 storey apartment blocks, situated approximately 20m from the boundary wall of No.1 Hawthorn Park, would result in significant overlooking of the private amenity space of this and other nearby dwellings which would significantly adversely affect the residential amenity of these properties and would be contrary to the proper planning and sustainable development of the area.

8.1.3. Section 3.3 sets out recommended conditions in the event of a grant of permission. Conditions of note include:

- Condition 2 – reduction of blocks A and B to a maximum of 3 storeys in height.
- Condition 3 – reduction of Block C to be a maximum of 5 storeys in height, with a minimum of 30% of Block C to a maximum of 3 storeys in height.
- Condition 4 (a) revised parking on the north-south spine road for a reduction in perpendicular parking spaces
- Condition 5 (a) A right turning lane on both the Forest Road and the new link road is required as part of the proposed road and junction designs. This will require an increased set-back of the proposed building lines along both Forest Road and the



new Fosterstown Link Road to achieve same. (b) a secondary access point to facilitate emergency access (c) provision of a future road access to the south

- Condition 6 (a) southern cycle lane should be provided as an off road facility in line with best practice of the National Cycle Manual.
- Condition 7 – basement car park design
- Condition 10(a) open space area marked as temporary shall be provided as Public Open Space for this development/play facility shall be located on this open space. (c) car parking and ESB substations shall be omitted from the boundary of Public Open Space (d) contribution towards public open space.
- Condition 13 – revised SuDs plan

#### Internal Reports

The Internal Reports which have been included with Fingal County Council's submission are summarised below – issues that have been previously raised above have been excluded in to avoid repetition.

Archaeology – concurs with conclusions previous geophysical survey and test-excavation that there is little if any archaeological potential.

Architects Department – proposal dwarfs adjacent properties/block forms would benefit from greater definition/differentiation of individual block massing/benefit from greater communal open spaces between to improve the quality of the public realm, privacy and amenity/scheme would benefit from greater integration of balcony areas into the design and massing of the building blocks/main entrances should be reconsidered to avoid corridor spaces and the threshold to the building/buffer within the apartments at entrance door area to create privacy for occupants.

Community Culture and Sports Division – no objection – request a piece of public art.

#### Conservation Officer

Cremona House to the north is of significant/should be considered under the next review of the Record of Protected Structures/18<sup>th</sup> Century Building/Noted on a 1777 map but is likely to date back earlier than this/House may have been named above the Battle of Cremona (1702) in which Irish regiments of King Louis XIV took part/

Any development in the surrounding environment should be carefully considered and sensitively designed.

Serious reservations and concerns about the visual impact of the proposed 9-storey height of Block A.

Transportation Planning Section

As per summary above.

Water Services Section

As per summary above.

Environment Section (Waste Enforcement and Regulation)

Recommend condition.

**Elected Members**

8.1.4. A summary of the views of elected members as expressed at the Balbriggan, Rush-Lusk, Swords Area Committee held on 12<sup>th</sup> November 2020 is included in Section 1.9 the Chief Executive's Report and is reproduced below:

- Procedural issues in respect to the Strategic Housing Development (SHD) process, generally, and specifically in respect to the timeline of the process having regard to the restrictions of the current Covid-19 pandemic.
- Material Contravention of the Masterplan (May 2019 with widespread support) and Development Plan (i.e. too dense at 150 UpH, too high at this location especially along Forest Road should be 2-3 storey).
- School not being provided as per Masterplan.
- Does the proposal contravene the RSES
- Loss of residential amenity too close: i.e. Block A c.26m from 1 Hawthorn Park and CGIs are misleading. Overbearance and balconies will lead to a loss of privacy. Narrow street.
- Need to improve cycling and walking facilities (safety and sustainability), especially with the school to the south, can't retrofit after
- Development should be well set back to preserve the hedgerow and trees

- Construction traffic should use the new link road from (Pinnock Hill)
- One road entrance is inadequate for the development
- This is a greenfield site without constraints
- Housing mix is not reflective of the community, needs more variety.
- Community Audit is inadequate. New school is essential. Playing pitches are needed. Proposal is not building communities. MKN build 1600 units in River Valley without a school and owes the area.
- Parking provision is inadequate. Overspill of parking to nearby estates envisaged.
- EV charging points required. Parking provision is inadequate.
- Concern over wastewater treatment
- Concern that Gabriel Stream can act as a pathway to Natura Sites and an AA is required.
- This proposal seeks to maximise profit at the behest of the community.
- If permitted the Council should consider its options to stop a bad decision i.e. JR similar to adjacent Council (please do not let this development go ahead in its current form)
- If permitted this proposal will eradicate confidence in the planning system i.e. Masterplans and LAP's.
- This is a great site for homes, schools, but we need to stick to the Masterplan.
- Proposal is premature without the Metrostop.

## 9.0 Prescribed Bodies

### IAA

- Applicant be directed to engage directly with Dublin Airport to assess the impact of development.
- Condition recommended in the event of a grant relating to crane operations.

### Irish Water



- Irish Water previously noted at pre consultation that the applicant has been issued a confirmation of feasibility for connection(s) to the Irish Water network(s) subject to the following;

#### Water

- The connection must be made from the new 'Swords 30"/710mm PE mains and should include installation of a 250mm ID offtake with a PRV controller. A bulk meter and associated telemetry system are also required for the Development.

#### Wastewater

- Irish Water can confirm that there is sufficient capacity in IWs wastewater network to allow this development of 278 number of units to connect without upgrades. If the developer intends to progress with further phases of this development beyond the current application then as there are known constraints in the wastewater network in this area, the Swords Drainage Area Plan (DAP) must be completed ahead of any further applications, which is expected to be completed in 2021.
- The applicant has engaged with Irish Water in respect of design proposal for which they have been issued a Statement of Design Acceptance for the development.
- Conditions are recommended.

#### National Transport Authority

Supports the regeneration of the subject site as a means of consolidating development within the existing built-up area of the city which will be within 500m of bus services on a core bus corridor and 500m of Metrolink rail services.

Fosterstown Link Road - the requirement for this link is acknowledged in the context of improved accessibility within Swords.

Pedestrian link to the R132 - will provide a required connection to access bus and metro services on the R132/should comprise a pedestrian and cycle link with a path wide enough to accommodate both modes/The junction with the R132 does not form part of the application/future proposals must be designed to take account of the BusConnects Core Bus Corridor proposals for Swords.



Emphasis on maximising the quality of residential amenity in order to demonstrate how public transport-oriented development can create and sustain successful residential communities, thereby facilitating the sustainable development of the city and environs. With this in mind, the NTA recommends that, ABP should consider;

Quantity of Car Parking Provision – scope to reduce this in line with the Guidelines/Quality of the Cycling Infrastructure – It appears that neither the basement nor ground level cycle parking is located in secure bicycle cages/stores/the proposed cycle parking should consist of Sheffield Stands (located 1m apart) and should be located in cycle cages/stores/residential bicycle parking (excluding visitor bicycle parking) at ground level should be covered, safe and secure. Bicycle parking should be located close to the building entrance.

#### Transport Infrastructure Ireland

Authority will rely on the planning authority to abide by official policy in relation to development on/affecting national roads as outlined in DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), subject to the following:

The proposed development shall be undertaken in accordance with the recommendations of the Transport (Traffic) Assessment and Road Safety Audit submitted. Any recommendations arising should be incorporated as Conditions in the Permission, if granted. The developer should be advised that any additional works required as a result of the Transport Assessment and Road Safety Audits should be funded by the developer.

#### DAA

Noise Zone C - The proposed development is located within Noise Zone C./Referenc is made to Objective DA07 of The Fingal Development Plan 2017-2023.

A condition is attached requiring the recommendations set out in Section 4, 5 and 6 of the Noise Impact Assessment this report to be implemented

Crane Use - The proximity of the proposal to the airport means the operation of cranes during construction may cause concerns in relation to air safety, and at a minimum, requires further detailed assessment in relation to flight procedures at Dublin Airport/ daa requests that a condition is attached to any grant of permission,

requiring the developer to agree any proposals for crane operations (whether mobile or tower crane) in advance of construction with daa and with the Irish Aviation Authority

Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (Development Applications Unit)

Archaeology

- There are no further archaeological requirements with regard to Phase 1 of the proposed development

Nature Conservation

Existing Hawthorn dominated hedgerow with some mature ash trees flanks Forest Road on the western edge of the development site/road constitutes the boundary between the townlands of Fosterstown North and Forestfields/this hedgerow is to be removed/retention of more of the woody vegetation on the site than is currently proposed would be likely to result in its continued use by more bird species.

Board should consider making it a condition of any permission that the hedgerow along Forest Road on the western boundary of the development site should be retained and the foot and cycle paths to be constructed along this road are built behind the hedgerow/A similar footpath has in recent years been built in this fashion along Stocking Lane in Rathfarnham/Fingal County Council are currently planning to build a section of a foot and cycle path behind a hedgerow along the R121 Luttrellstown Road as part of the proposed Kellystown Road scheme.

Similarly it should be considered whether it should be a condition of any permission that the hedges flanking the tree line in the northeast of the site should be retained.

Conditions in relation to the timing of the clearance of vegetation and adoption of mitigation measures to conserve bat species are also recommended.

## 10.0 Screening

### 10.1. Environmental Impact Assessment (EIA)

10.1.1. The applicant has submitted an EIA Screening Statement which concludes *inter alia* that a sub threshold EIAR is not required for the proposed development for the following reasons:

- The proposal falls significantly below the thresholds of Schedule 5 of the Planning and Development Regulations 2001-2020;
- The site makes optimum use of a greenfield zoned land resource and utilises existing servicing provision;
- The development will be connected to public services such as water, foul and storm sewers;
- The site will not have any significant impact on any European Sites or other sites or structures designated for protection;
- It is proposed to use a sustainable urban drainage system approach to stormwater management throughout the site;
- The proposed drainage strategy will contribute to improved retention of surface water on site through attenuation measures including planter boxes and green roofs;
- The mitigation measures set out in the CMP will be employed to mitigate any risk of noise, dust or pollution during the construction phase;
- No identified impact in the screening exercise, cumulatively or individually is considered to likely cause significant effects on the environment.

10.1.2. I note the comments of the Planning Authority and of observer submissions which state that an EIAR is required to be submitted along with this application due to the cumulative impacts of the other developments in later phases which lie within the Masterplan Plans and it stated that the proposal constitutes 'project splitting'. I have responded to this issue in the relevant section below.

10.1.3. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,



- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

10.1.4. The proposed development is for 278 residential units on a site area of c.2.64Ha.

The proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended). As per section 172(1) (b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or an EIA determination is requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment. Schedule 7 sets out the relevant criteria to be applied in the screening process. This information has been provided by the applicant in the EIA Screening Statement under the following headings with additional information under other sub criteria.

1. Characteristics of Proposed Development
2. Location of Proposed Development
3. Types and Characteristics of Potential Impacts

10.1.5. I have assessed the proposed development having regard to the above criteria and associated sub criteria having regard to the Schedule 7 information and other relevant information which accompanied the application, including *inter alia*, the Appropriate Assessment Screening Report, the Ecological Impact Assessment, the Landscape and Visual Impact Assessment, the Archaeological Impact Assessment, the Arboricultural Impact Assessment, the Noise Impact Assessment, the Microclimate Assessment, the Construction Waste Management Plan and Operational Waste Management Plan, the Engineering Assessment Report, the Flood Risk Assessment, the Transportation Impact Assessment, the Engineering Services Report for Fosterstown Link Road, the Outline Construction Management



Plan, the Road Safety Audit prepared by Bruton Consulting Engineers and the Sunlight and Daylight Access Analysis prepared by 3DDB.

#### Characteristics of Proposed Development

10.1.6. The proposed development comprises of the construction of a primarily residential scheme to provide for 278 no. units within 3 no. blocks ranging in height from 5 no. storeys to 9 no. storeys. The total breakdown of units will comprise of 125 no. 1 bedroom units, 146 no. 2 bedroom units, and 7 no. 3 bedroom units, and ancillary residential amenity spaces. The proposed development will also provide for internal amenity space. The proposed development will also provide for 1 no. creche facility, 1 no. retail unit, and tenant amenity space.

Each block will contain the following:

- Block A – ranges in height between 6-9 storeys and contains 13 no. 1 bedroom units, 45 no. 2 bedroom units and 7 no. 3 bedroom units and internal amenity space, a retail unit and a creche facility at ground floor level;
- Block B – ranges in height between 5-6 storeys (over semi-basement level) containing 56 no. 1 bedroom units and 48 no. 2 bedroom units.
- Block C – ranges in height between 6-7 storeys (over semi-basement level) in height containing 56 no. 1 bedroom units and 53 no. 2 bedroom units;
- The proposed development will also include the provision of public, communal and private open space including courtyard areas, terraces, balconies and playground areas;
- A section of the proposed public open space consists of temporary open space which will be developed on in future phases;
- Public realm improvements including the provision of footpaths, road widening, cycle infrastructure and landscaping works to the Forest Road;
- Provision of a new link road from the Forest Road to provide access to the proposed development and adjoining lands. The new link road will also include a pedestrian and cycle route to the Dublin Road/ R132;

- Parking at basement level for 104 no. cars and at surface level for 102 cars to serve the residential element of the proposed development. 5 no. car parking spaces will be provided at surface level to serve the creche;
- 214 no. bicycle parking spaces will be provided at basement level and 162 no. external spaces at ground level throughout the site;
- All hard and soft landscaping, boundary treatments and all associated site development works, signage, services, substations, green roofs, PV panels at roof level and plant.

#### Location of Proposed Development

- 10.2. The site is within the built up area of Swords a few hundred metres south of the town centre. It has a stated area of 2.64ha. The subject lands of this application form the north-western part of the Fosterstown Master Plan area and are bounded by Forest Road to the west and greenfield sites to the south and east. A portion of the site extends to the R132 to the east, near the junction at Pinnock Hill with the by-pass road along the R132 and the road serving the Airside business park. To the north is Cremona House. The character of the surrounding area is primarily residential and there is extensive areas of housing to the west of the Forest Road. Immediately opposite the site to the west is Hawthorn Park, River Valley Grove and Oulart housing developments, with a number of residential properties also fronting onto the Forest Road.
- 10.3. The site is zoned 'RA – Residential Area' which aims to "Provide for new residential communities subject to the provision of the necessary social and physical infrastructure" under the Fingal County Development Plan 2017-2023.
- 10.4. The nearest bus stops to the site are located on the Forest Road which serves a number of Bus Routes including:
- 41b, 41c, 41z, 102, 102p, 500, 500-N, 503, 505 and 505-X (Swords, Sports Ground Stop) – approximately 200m north of the site.
  - 500, 501, 502, 503, 505 (Swords Ballintranee Wood) – approximately 300m north of the site
- 10.5. As part of the proposed development, a pedestrian and cycle route from the Forest Road to the R132/Dublin Road is proposed to increase the accessibility of the lands,

and to access the existing and proposed bus routes on the R132, as well as to provide access to the proposed Metro Station at Fosterstown. This link will provide for access to significant bus links, both existing and proposed, and for access to the proposed Metro Station at Fosterstown.

- 10.6. With the proposed cycle and pedestrian route in place, the bus stop at Pinnockhill (stop 5073) will be located within 500m of the development, subject to access via the proposed cycle pedestrian route, and these serves a number of buses including the 41, 41b, 41d, 41x and 197. It is also located within 500m of bus stop 3694, Pinnock Hill, which is served by a number of bus routes including the 33, 33a, 41, 41b, 41d, 41x, 197, 500-X, 501, 501-X, 506-X. It is also located within 600m of Bus Stop 3677 (Colaiste Choilm) which is served by the 33, 33a and 33e bus routes.
- 10.7. The Traffic and Transport Assessments refers to the Bus Connects Project and refers to the proposed A4 frequent bus route runs from Brackenstown Road to Nutgrove that will run adjacent to the development site on the R132 and includes stops in Santry, Drumcondra, City Centre, O'Connell Street, Georges Street, Rathmines, Rathgar and Terenure.
- 10.8. In relation to the proposed Metrolink Project, information on the Metrolink Website indicates that a Railway Order for the project will be made in June 2021. A metro station is proposed at Fosterstown, which will be an approximately 500m walk from the northeastern point of the proposed development site.
- 10.9. The subject site is not proximate to any SPA or SAC and there are no National Monuments or Zones of Archaeological Interest located within the subject site.
- 10.10. The site is located over the Swords groundwater body and the overall status of this waterbody is described as Good. Groundwater vulnerability is listed as low. The closest waterbody to the site is the Swords Glebe watercourse which runs c120m from the site's northern boundary. This links to the Ward River, which in turn joins the Broadmeadow, which enters the Malahide estuary. There is another waterway, the Gaybrook Stream (North) which runs along the boundary separating the northern fields from the Arable Lands to the south, approx. 87m south of this proposed development site. The application documents assumes that this waterway joins up within the nearby waterbody of the same name, the Gaybrook which runs parallel to



it. This waterbody then runs a further c3.3km from this point to where it enters the Malahide Estuary to the north-east.

#### Types and Characteristics of Potential Impacts

10.10.1. It is not considered that the construction or operation of the site will lead to excessive production of waste, pollution or lead to significant nuisances. The site is not located within or directly to any SAC or SPA. There will be a loss of soil currently used for agricultural purposes. An Ecological Impact Assessment has been carried out, as well as an arboricultural survey, and with compensatory measures in place, no significant residual impacts are identified. I note there is a watercourse which is located approximately 80m to the south of the site. Best practice construction measures will prevent pollution to this watercourse as well as any potential pollution to any other watercourses. During operation, surface water will be attenuated and will pass through a petrol/oil interceptor and discharged to the public network, with flow control devices limiting flow volumes to pre-development greenfield rates. Waste water will connect into the public system. No capacity issues have been raised by Irish Water in relation to water supply. No significant impacts on air pollution are expected. While noise and vibration are expected at the construction stage, which can be mitigated, no significant noise or vibration impacts are expected at operational stage. In terms of landscape impacts, the development is part of the planned extension of Swords and has been designed having regard to the surrounding context and taking account of the site's topography. Subject to conditions, including conditions relating to a reduction in height and massing, no significant amenity, landscape or visual effects are likely to arise from the proposed development. Subject to conditions, no significant impacts on archaeology, architecture and cultural Heritage are likely. The site is not particularly vulnerable to major accidents and/or disasters. The Flood Risk Assessment identifies site as lying within Flood Zone C with a low probability of flooding.

10.10.2. In terms of the inter-relationship between the impacts identified above, any such interrelationships are not considered significant nor would they cumulatively result in a likely significant effect on the environment.

10.10.3. In terms of cumulative impacts of other existing and/or approved projects, no such projects are identified and as such cumulative impacts of other existing and/or



approved projects, in combination with the current proposal, can be ruled out. In relation to the other sites within the Fosterstown Masterplan area, any proposals for these sites do not yet have approval, and the timescale for delivery of any proposals on the site is not definitive, although I note the Screening Report refers to a pre-application on the adjoining 'Murphy's Lands' site to the south of this site, which refers to a development consisting of 705 no. residential units, crèche and 2 no. retail units (ABP Reference 307260).

10.10.4. The size and design of the proposed development would not be unusual in the context of a residential area. The proposed use as residential would not give rise to waste, pollution or nuisances that differed from that arising from the other housing in the vicinity. The proposal will improve and extend the existing road network. The site is not zoned for the protection of a landscape or for natural or cultural heritage. The project will be managed during construction using best practice methods so as there is no likelihood of any impact to the environment. The design of the proposal is such that there will be no negative impact on any residents in the vicinity and any increase in traffic is minimal having regard to the carrying capacity of the surrounding traffic network. Having regard to:

- (a) Characteristics of the proposed development,
- (b) The nature and scale of the proposed development, on zoned lands served by public infrastructure,
- (c) The types and characteristics of potential impacts,

It is concluded that, by reason of the nature, scale and location of the subject site, there are no significant environmental sensitivities in the area, accordingly the proposed development would not be likely to have significant effects on the environment. I consider the need for an Environmental Impact Assessment can, therefore, be excluded.

## **11.0 Appropriate Assessment**

- 11.1.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the

Planning and Development Act 2000 (as amended) are considered fully in this section.

Compliance with Article 6(3) of the Habitats Directive

- 11.1.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).
- 11.1.3. The applicant has submitted a Screening Report for Appropriate Assessment as part of the planning application. The Screening Report has been prepared by Enviroguide Consulting. The Report provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. The AA screening report concludes that there will be no likely significant negative impacts caused to any Natura 2000 sites as a result of the proposed development.
- 11.1.4. Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

Need for Stage 1 AA Screening

- 11.1.5. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

### Brief Description of the Development

- 11.1.6. The applicant provides a description of the project in Section 2.2.1 of the Screening Report. The development is also summarised in Section 3 of this report. In summary, permission is sought for a housing development of 278 no. apartments, childcare facilities and associated site works on a greenfield site of 2.64 ha. Foul drainage will ultimately be collected by the existing sewer which runs along Forest Road, via new sewer infrastructure proposed along the new Link Road. This is then treated at the Swords WWTP. Surface Water will ultimately connect to the existing surface water drainage system at the easternmost extent of the site, via new surface water infrastructure along the Link Road, including temporary attenuation storage.
- 11.1.7. The area is characterised by residential to the west and north, with mixed use development found within the town of Swords, located approximately 500 m to the north.
- 11.1.8. The site is described within the Appropriate Assessment Screening Report as agricultural fields separated from arable land to the south by a drainage ditch containing the Gaybrook stream (North) waterway. The site is located over the Swords groundwater body and the overall status of this waterbody is described as Good. Groundwater vulnerability is listed as low. Reference is made to the Swords Glebe watercourse which runs c120m from the site's northern boundary. This flows for approximately 665m before linking up to the larger Ward River. This flows another 2km before joining the Broadmeadow which flows for another 770m before joining the Malahide estuary. The Screening Report refers to another waterway, the Gaybrook Stream (North) which runs along the boundary separating the northern fields from the Arable Lands to the south, and is approximately 100m to the south of this application site. It is assumed within the report that the waterway joins up within the nearby waterbody of the same name, the Gaybrook which runs parallel to it. This waterbody then runs a further c3.3km from this point to where it enters the Malahide Estuary to the north-east.

### Submissions and Observations

- 11.1.9. The submissions and observations from Observers, the Local Authority and Prescribed Bodies are summarised in Sections 7, 8 and 9 of this report. The submissions from the DAU, the Planning Authority and from a number of observers



have raised general ecological concerns including in relation to the impact on existing hedgerows, tree lines and stream, which provide habitats for species. An observer has stated that the proposal will impact on wildlife including pinemartins, red squirrels, hedgehogs, bats, badgers, birds and wild hare and regard should be had to the protection of native trees under the forestry act of 2014. An observer has also stated that there is no mention of river or stream which is piped under Bormimhe in the FRA and the creation of potential flood risk by opening this pipe and refers to the applicant's report which states there is a high risk of surcharge. It is stated that development will lead to flooding. The submission from the Development Applications Unit raises some general ecological issues, including impacts on trees and hedgerows, as well as impacts on bird and bat species.

11.1.10. I have had regard to the above submissions, where specifically relevant to the Appropriate Assessment process, in the below assessment, as well as within other sections of this report.

#### Zone of Influence

11.1.11. A summary of European Sites that occur within a 15km radius of the proposed development is set out in Section 2.2.3 of the applicant's AA Screening Report. In terms of the zone of influence I note that the site is not within or immediately adjacent to a Natura 2000 site. All of the sites identified within the applicant's zone of influence are Coastal Natura 2000 sites and I concur with the applicant's assertion that sites that lie beyond this are unlikely to be impacted by the development proposals. I concur that the sites as identified within Section 2.2.3 of the applicant's AA Screening Report are those sites that lie within the zone of influence of the development proposal, having regard to surface water and wastewater pathways.

11.1.12. Section 2.3 of the applicant's Screening Report identifies all potential impacts associated with the proposed development and considered whether the construction and operation of the proposed development has the potential to have an impact on any of the qualifying interests and/or conservation objectives of identified Natura 2000 sites. The issues examined are impacts on surface water due to surface water run-off and discharges during construction and operational phases, impacts of increased noise dust, vibrations and emissions at construction and operational stage, increased human presence during the construction and operational phases,



increased lighting during the construction and operational phases, potential for the spread of invasive species during the construction phase and increased wastewater loading at Swords Wastewater Treatment during the operational phase of the development.

11.1.13. Table 5 sets out in detail identification and assessment of likely significant effects on Natura 2000 sites within the zone of influence of the proposed development and the conclusions are summarised in Section 2.4 of the AA Screening Report. The following is concluded:

- There will be no loss or alteration of habitat as a result of the proposed development. The site does not encompass any ex-situ breeding, roosting, staging or foraging habitats for any of the species listed as Species of Conservation Interest (SCI) for the Natura 2000 sites in question.
- There is no potential for the transmission/introduction of invasive flora to nearby Natura 2000 sites.
- Habitat fragmentation will not arise from the development.
- The proposed development will not cause any significant disturbance and/or displacement to species within any Natura 2000 site.
- Proposed development will not cause any reduction in the baseline population of any species associated with any of the aforementioned Natura 2000 sites.
- The proposed development does not have the potential to cause any significant adverse impact in terms of water quality and/or resource any nearby Natura 2000 site.

11.1.14. Section 2.4.6 of the applicant's Screening Report considers the potential for in-combination effects and considers a number of plans and projects, as detailed in the report. It is concluded that there is no possibility of in-combination effects between these plans and the proposed development due to the nature of the proposed development, the short term and local scale of the proposed works

11.1.15. Notwithstanding those sites considered to be within the development's zone of influence, as set out in the applicant's Screening Report, in applying the 'source-pathway-receptor' model in respect of potential indirect impacts, it is my view that the designated sites within the inner section of Dublin Bay, namely South Dublin Bay

SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA could not reasonably be considered to be within the downstream receiving environment of the proposed development, given the nature and scale of the proposed development, the insignificant loading in terms of either surface water or wastewater, the intervening distances and the physical headland buffer (Howth Head) between the water bodies. I conclude that it is reasonable to conclude on the basis of the available information that the potential for likely significant effects on these sites can be excluded at the preliminary stage.

11.1.16. The designated area of sites that are downstream of the outfall of the Swords Waste Water Treatment Plant, which outfalls to the Ward River, and subsequently to the Malahide Estuary, namely Malahide Estuary SAC, Malahide Estuary SPA, Rockabill to Dalkey Island SAC, Lambay Island SAC, Lambay Island SPA, Rogerstown Estuary SCA, Baldoye Bay SAC, Ireland's Eye SAC, Howth Head SAC and Howth Head SPA, could be reasonably be considered to be within the downstream receiving environment of the proposed development. These sites do not have a physical land barrier between the Malahide Estuary and the boundary of the site. On this basis these sites are subject to a more detailed Screening Assessment.

11.1.17. I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.

#### Screening Assessment

11.1.18. The Conservation Objectives (CO) and Qualifying Interests of Malahide Estuary SAC, Malahide Estuary SPA, Rockabill to Dalkey Island SAC, Lambay Island SAC, Lambay Island SPA, Rogerstown Estuary SCA, Baldoye Bay SAC, Ireland's Eye SAC, Howth Head SAC and Howth Head Coast SPA are set out below:

Malahide Estuary SAC (000205) – 2.2km north-east of the proposed development
CO – To maintain the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected.
Qualifying Interests/Species of Conservation Interest:
1140 Mudflats and sandflats not covered by seawater at low tide

1310 Salicornia and other annuals colonising mud and sand

1320 Spartina swards (Spartinion maritimae)

1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae)

1410 Mediterranean salt meadows (Juncetalia maritimi)

2120 Shifting dunes along the shoreline with Ammophila arenaria (white dunes)

2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)\*

Malahide Estuary SPA (004025) – 2.2km north-east of the proposed development

CO– To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Qualifying Interests/Species of Conservation Interest:

Great Crested Grebe (Podiceps cristatus) [A005]

Light-bellied Brent Goose (Branta bernicla hrota) [A046]

Shelduck (Tadorna tadorna) [A048]

Pintail (Anas acuta) [A054]

Goldeneye (Bucephala clangula) [A067]

Red-breasted Merganser (Mergus serrator) [A069]

Oystercatcher (Haematopus ostralegus) [A130]

Golden Plover (Pluvialis apricaria) [A140]

Grey Plover (Pluvialis squatarola) [A141]

Knot (Calidris canutus) [A143]

Dunlin (Calidris alpina) [A149]

Black-tailed Godwit (Limosa limosa) [A156]

Bar-tailed Godwit (Limosa lapponica) [A157]

Redshank (Tringa totanus) [A162]

Wetland and Waterbirds [A999]



Rogerstown Estuary SAC (000208) 5.7km north-east of the proposed development

CO – To maintain the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest:

Estuaries [1130]

Mudflats and sandflats not covered by seawater at low tide [1140]

Salicornia and other annuals colonising mud and sand [1310]

Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]

Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]

Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]

Baldoyle Bay SAC (000199) 6.6km south-east of the proposed development

CO – To maintain the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest:

Mudflats and sandflats not covered by seawater at low tide [1140]

Salicornia and other annuals colonising mud and sand [1310]

Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]

Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

Rogerstown Estuary SPA (004015) 6.2km north-east of the proposed development

CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.



Qualifying Interests/Species of Conservation Interest:

Greylag Goose (*Anser anser*) [A043]

Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]

Shelduck (*Tadorna tadorna*) [A048]

Shoveler (*Anas clypeata*) [A056]

Oystercatcher (*Haematopus ostralegus*) [A130]

Ringed Plover (*Charadrius hiaticula*) [A137]

Grey Plover (*Pluvialis squatarola*) [A141]

Knot (*Calidris canutus*) [A143]

Dunlin (*Calidris alpina*) [A149]

Black-tailed Godwit (*Limosa limosa*) [A156]

Redshank (*Tringa totanus*) [A162]

Wetland and Waterbirds [A999]

Baldoyle Bay SPA (004016) 6.6km south-east of the proposed development

CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Qualifying Interests/Species of Conservation Interest:

Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]

Shelduck (*Tadorna tadorna*) [A048]

Ringed Plover (*Charadrius hiaticula*) [A137]

Golden Plover (*Pluvialis apricaria*) [A140]

Grey Plover (*Pluvialis squatarola*) [A141]

Bar-tailed Godwit (*Limosa lapponica*) [A157]

Wetland and Waterbirds [A999]

Rockabill to Dalkey Island SAC (003000) 10.2km east of the proposed development

CO – To maintain the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest:

Reefs [1170]

*Phocoena phocoena* (Harbour Porpoise) [1351]

Irelands Eye SPA (004117) 11km south-east of the proposed development

CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Qualifying Interests/Species of Conservation Interest:

Cormorant (*Phalacrocorax carbo*) [A017]

Herring Gull (*Larus argentatus*) [A184]

Kittiwake (*Rissa tridactyla*) [A188]

Guillemot (*Uria aalge*) [A199]

Razorbill (*Alca torda*) [A200]

Ireland's Eye SAC (002193) 11.4km south-east of the proposed development

CO – To maintain the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest:

Perennial vegetation of stony banks [1220]

Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]

Howth Head SAC (000202) 12km south-east of the proposed development

CO – To maintain the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest:

Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]

European dry heaths [4030]

Lambay Island SAC (000204) 13.3km north-east of the proposed development

CO – To maintain the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest:

Reefs [1170]

Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]

Halichoerus grypus (Grey Seal) [1364]

Phoca vitulina (Harbour Seal) [1365]

Howth Head Coast SPA (004113) 13.3km of the proposed development

CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Qualifying Interests/Species of Conservation Interest:

Kittiwake (Rissa tridactyla) [A188]

Lambay Island SPA (004069) 13.3km north-east of the proposed development

Fulmar (Fulmarus glacialis) [A009]

Cormorant (Phalacrocorax carbo) [A017]

Shag (Phalacrocorax aristotelis) [A018]

Greylag Goose (Anser anser) [A043]

Lesser Black-backed Gull (Larus fuscus) [A183]



Herring Gull (*Larus argentatus*) [A184]

Kittiwake (*Rissa tridactyla*) [A188]

Guillemot (*Uria aalge*) [A199]

Razorbill (*Alca torda*) [A200]

Puffin (*Fratercula arctica*) [A204]

11.1.19. Consideration of impacts on Malahide Estuary SAC, Malahide Estuary SPA, Rockabill to Dalkey Island SAC, Lambay Island SAC, Lambay Island SPA, Rogerstown Estuary SCA, Baldoyke Bay SAC, Ireland's Eye SAC, Howth Head SAC and Howth Head Coast SPA:

11.1.20. There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase. In relation to the potential for likely significant effects on the above Natura Sites, I generally concur with the conclusions as set out in Table 5 and Section 2.4 of the applicant's Screening Report.

11.1.21. There will be no loss or alteration of habitat as a result of the proposed development. The site does not encompass any ex-situ breeding, roosting, staging or foraging habitats for any of the species listed as Species of Conservation Interest (SCI) for the any of the Natura 2000 sites above. Specifically in relation to the Malahide Estuary SPA and the Malahide Estuary SAC, the closest Natura 2000 sites to the proposed development, the intervening minimum distance between the proposed development and these sites is approximately 2.2km. As set out in the Screening Report, this is sufficient to exclude the possibility of significant effects arising from disturbance and from emissions from the site including, but not limited to noise, increased traffic volume and increased lighting. I note the contents of various submissions on the application which relate to impacts on wildlife generally. In relation to same, and in terms potential loss of ex-situ habitat, the site is primarily comprised of unmanaged grassland, which is note a suitable breeding, roosting, staging or foraging habitat for any of the bird species listed as qualifying interests of the Malahide Estuary SPA. There are no faunal species listed as qualifying interests for the Malahide Estuary SAC. In terms of surface water impacts on the Natura 2000

sites listed above, including the Malahide Estuary SPA and the Malahide Estuary SAC, there is no direct hydrological connection between the proposed development and any of these Natura 2000 sites, with the nearest waterbody being the Gaybrook Stream which runs via a drainage ditch approximately 87m to the south of the southern-most portion of the site. The Swords Glebe watercourse runs approximately 120m to the north of the site and there is significant semi-natural buffers between the proposed development and each of these watercourses, which is sufficient to ensure that contamination, as a result of surface water run off either during construction or operational phase, is unlikely. In any event I note that during the construction phase standard pollution control measures are to be used to prevent sediment or pollutants from leaving the construction site which further reduces the likelihood of pollutants entering the water system. During the operational phase clean, attenuated surface water which ultimately be discharged to the existing surface water sewer at the easternmost extent of the site. The pollution control measures to be undertaken during both the construction and operational phases are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In relation to the issue of flooding, as raised by an observer on the application, I have considered this issue in detail in Section 12.6 of this report and it is concluded that the proposed development will not increase the risk of flooding to adjoining lands.

- 11.1.22. In terms of the impact as a result of foul water discharge, as noted in the Screening Report, Irish Water have stated that the connection to the foul water network can be facilitated subject to the necessary upgrade to the foul water sewer network, which is being carried out as part of this development. The foul water generated by the proposed development is ultimately treated at the Swords WWTP. This WWTP has been recently upgraded which has increased capacity from a PE of 60,000 to 90,000. Information on the Irish Water Website provides an update on the Swords Sewerage Scheme & Wastewater Treatment Works, which is stated as being completed. The additional loading as a result of this development is 751 PE. This WWTP discharges to the Ward River and as a result there is potential for an interrupted and distant hydrological connection between the site and Coastal sites listed above, including Malahide Estuary SPA and Malahide Estuary SAC, due to the

wastewater pathway. However, the foul discharge from the site is negligible in the context of the overall licenced discharge at Swords WWTP, and thus its impact on the overall discharge would be negligible. As a result this is no likely significant impacts on the Malahide Estuary SPA and the Malahide Estuary SAC, and on those Natura 2000 sites where the intervening distance is greater, having regard to their conservation objectives.

11.1.23. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Swords WWTP, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. Furthermore, other projects within the Fingal Area which can influence conditions in the Natura 2000 sites listed above are also subject to AA. In this way in-combination impacts of plans or projects are avoided.

11.1.24. It is evident from the information before the Board that the proposed development, individually or in combination with other plans or projects, would be not be likely to have a significant effect on the Malahide Estuary SAC, Malahide Estuary SPA, Rockabill to Dalkey Island SAC, Lambay Island SAC, Lambay Island SPA, Rogerstown Estuary SCA, Baldoyle Bay SAC, Ireland's Eye SAC, Howth Head SAC and Howth Head Coast SPA and that Stage II AA is not required.

#### AA Screening Conclusion:

11.1.25. It is reasonable to conclude that on the basis of the information on 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 Malahide Estuary SAC, Malahide Estuary SPA, Rockabill to Dalkey Island SAC, Lambay Island SAC, Lambay Island SPA, Rogerstown Estuary SCA, Baldoyle Bay SAC, Ireland's Eye SAC, Howth Head SAC and Howth Head Coast SPA, or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **12.0 Assessment**

12.1. The main planning issues arising from the proposed development can be addressed under the following headings-



- Principle of Development
- Urban Design including Height
- Material Contravention
- Residential Amenities/Residential Standards
- Surrounding Residential Amenity
- Traffic and Transport
- Flood Risk
- Site Services
- Ecology/Trees/Hedgerows
- Archaeology
- Other Issues
- Planning Authority's Recommended Reasons for Refusal

## 12.2. Principle of Development

### Zoning

12.2.1. The site is zoned for residential development under the RA objective of the Fingal County Development Plan 2017-2023. The proposal to provide residential units, a creche and a retail unit is acceptable in principle, having regard to the zoning objective. The Planning Authority have also stated that the Principle of development is acceptable having regard to the zoning objective.

### 12.2.2. Core Strategy/Settlement Strategy

12.2.3. I consider that the proposed development in line with the overall development settlement strategy for Swords, as set out in Objectives SS01 and SS12 of the Fingal County Development Plan, which is to consolidate the vast majority of Fingal's Growth into towns such as Swords, and to promote Swords (and Blanchardstown) as Fingal's primary growth centres for residential development, in line with the County's Settlement Strategy.

12.2.4. Fingal County Council, in their submission, note that the development of the site substantially complies with the core and settlement strategy but that the Board should consider the capacity of the receiving environment to sustainably service the cumulative growth and infrastructure needed to facilitate same.

### Phasing

- 12.2.5. The proposed Phasing Strategy is set in the applicant's Statement of Consistency and it is noted that, this current application, which comprises Phase 1 of development, will consist of the construction of Block A, B and C (278 no. units), creche facility and a retail unit, upgrades to the Forest Road, development of part of the Fosterstown Link Road including a pedestrian and cycle link to the R132/Dublin Road and provision of 3,385 sqm open space (1,608 sqm of which is temporary open space).
- 12.2.6. Phase 2 will consist of the construction of Blocks D, H, I and J (c. 400 units), completion of the riparian corridor resulting in c. 8,300 sqm of public open space, reservation for school and potential future access onto the Forest Road. The spine road which provides access from the Fosterstown link road through phase 1 and phase 2 lands to the site to the south will be proposed to be taken in charge by Fingal County Council in phase 2 of development.
- 12.2.7. Phase 3 will consist of the construction of Blocks E, F and G (c.320 units) and the provision of c. 2,300 sqm of additional public open space. There is also the potential to provide access to the lands to the east within this phase of development.
- 12.2.8. In relation to the phasing of the development, Fingal County Council note that the proposed development seeks to develop 278 no. residential units on approximately 18% of the Masterplan's entire area (this also exceeds the entire Masterplan's Phase 1 residential component) with only portion of the transport infrastructure upgrades and no provision of a local school and that, *inter alia*, the phasing as proposed is not compliance with the phasing as set out in the Fosterstown Masterplan (May 2019).
- 12.2.9. In relation to same, I note that within Phase 2 the applicants have stated that an area is reserved for a school which I consider provides sufficient reassurance that this will be provided at an appropriate stage of development. In terms of infrastructure provided, I note that significant infrastructure improvements are proposed at this phase of development, including substantial improvements to the existing Forest Road, a portion of the proposed Link Road and a cycle/pedestrian access to the R132. I consider that this is sufficient to serve this Phase of development and will provide significant benefits to both existing and future residents in terms of much improved pedestrian and cycle facilities and quicker and easier access to the R132

and to the existing and proposed Bus Routes proposed along this route and to the proposed Metro Station at Fosterstown.

### Density

- 12.2.10. The Planning Authority state, in their first recommended reason for refusal, that *inter alia* the proposed density is contrary to the density parameters as set out in the Fosterstown Masterplan. Elected Members have also raised this as a concern. Within the Masterplan, it is stated that residential accommodation should be provided at a net density of 105-115 units per hectare.
- 12.2.11. A significant number of observer submissions have stated that the density is excessive. It is further stated that the net density is not specified and the density figure as set out is not accurate. It is also stated that the Masterplan has envisaged a lower density closer to Forest Road, rising in height and density with the dropping site elevation towards the east/R132 and that the proposed figure is not as stated within the Masterplan. It is further stated that non-compliance with the recommended densities in the Fosterstown Masterplan is not referred to in the Statement of Material Contravention.
- 12.2.12. The applicants contend that the site can be defined as a Central and/or Accessible Urban Location as set out within the Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities 2018 and is therefore suitable for higher density development.
- 12.2.13. The proposed density is 150 units/ha. Increasing residential density at appropriate locations is national policy and articulated in section 28 guidelines, as well as within Regional Policy and is also supported within the Fingal Development Plan. Such increases in density are to ensure the efficient use of zoned and serviced land.
- 12.2.14. In relation to national policy, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 27, 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures.
- 12.2.15. In relation to regional policy, the site lies within the Dublin Metropolitan Area Strategic Plan (MASP) as defined in the Regional Spatial & Economic Strategy (RSES) 2013-2031 for the Eastern & Midland Region. A key objective of the RSES is



to achieve compact growth targets of 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs. Within Dublin City and Suburbs, the RSES support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area and ensure that the development of future development areas is co-ordinated with the delivery of key water and public transport infrastructure.

12.2.16. In relation to Section 28 Guidelines, I note the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018) which state, with respect to location, the guidelines note that in general terms, apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartment development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.

12.2.17. In terms of location I note that the site currently lies approximately 500m to the south-west of Swords Town Centre which has a wide variety of services and employment locations. In terms of accessibility, the site currently does not have access to the R132/Dublin Road. The nearest bus stops to the site are located on the Forest Road (200m to the north and 300m to the south) which serves a number of Bus Routes, none of which could be considered to be high frequency routes. However, as part of the proposed development, a pedestrian and cycle route from the Forest Road to the R132/Dublin Road is to access the existing and proposed bus routes on the R132 as well provided easier and quicker access to the proposed Metro Station at Fosterstown. This link will provide for access to high frequency bus links, both existing and proposed, along the R132, and for access to the proposed Metro Station at Fosterstown.

12.2.18. Given the proposed link, and the existing and proposed public transport services that will serve the site, my view is that the site lies within the category of a Central and/or Accessible Urban Location as defined within the Apartment Guidelines (2018). The Guidelines note that these locations are generally suitable for small- to large-scale

(will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments.

12.2.19. In relation to the criteria as set out in the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), it is my view that the site can be considered under the category of a 'Public Transport Corridor'. The Guidelines set out that land use planning should underpin the efficiency of public transport services by sustainable settlement patterns, including higher density, on lands within existing or planned public transport corridors. Given the planned improvement to the bus networks, and the provision of a metro route in close proximity to this site, it is considered that the density as proposed here is supported by these guidelines. The Guidelines also set out general goals of which are to which are *inter alia* to prioritise walking, cycling and public transport, and minimise the need to use cars and to provide a good range of community and support facilities where and when they are needed and that are easily accessible.

12.2.20. In terms of community and support facilities, the town of Swords provides a range of services as set out in the Community and Local Needs Audit. A large number of submissions have stated that that playing pitches should be provided as part of the development and that a school should be provided in this phase of development. I have considered the issue of school provision in Section 12.2.56 below. In terms of setting aside lands for playing pitches, there does not appear to be an objective to do so within either the Fingal Development Plan or the Fostertown Masterplan, and as such I do not consider such provision is required in this instance.

12.2.21. In relation to local policy, Objective PM 41 of the Fingal Development Plan supports increased densities at appropriate locations, whilst also ensure quality design and protection of amenity. I have considered the issue of design and amenity in the relevant sections below. The Development Plan does not set out a limitation on residential density. The non-statutory Fosterstown Masterplan sets out a number of built form objectives, including the provision of residential accommodation at a net density of 105-115 units hectare. The proposal does not comply with this objective. However, given the site's location to existing and proposed public transport routes, and its proximity to the town of Swords, I do not consider that the lower densities as set out in the Fosterstown Masterplan, are appropriate in this instance, given the need to deliver sufficient housing units, the need to ensure efficient use of land and

the need to ensure maximum use of existing and future transport infrastructure, and in order to support and enhance the viability of existing and future services. However, the acceptability of the density proposed is subject to subject to appropriate design and amenity standards, which are considered in the relevant sections below.

### 12.3. Urban Design including Height

- 12.3.1. The proposal consists of 3 blocks, A, B and C. Block A is an L-Shaped Block on the corner of Forest Road and the New Link Road. Block A is 6 to 9 storeys in height, with 6 storeys fronting onto the Forest Road, with the 9 storey element on the corner of the New Link Road and the internal access road (north-south spine road). Block B is a linear block of 5 to 6 storeys along Forest Road. Block C is 7 storey block fronting along the north-south Spine Road.
- 12.3.2. The Planning Authority state that the height, 5-6 storeys adjoining residential development along Forest Road, is a Material Contravention of the Fingal County Development Plan and that there is no adequate justification for same. The Planning Authority state that the proposal does not demonstrate compliance with SPPR 2 of the Building Height Guidelines. It is stated the proposal does not comply with the Fosterstown Masterplan. They also raise concerns in relation to compliance with DMURS, including the excessive length and the monolithic nature of Block B. Concerns are also raised in relation to building heights and separation distances to avoid overbearing and the creation of a tunnelling effect, within the courtyard area and also along Forest Road. It is concluded that the development is substandard in respect to urban design, placemaking and residential development. Recommended reason for refusal 1 refers to the height and density of the proposal. Recommended reason for refusal 2 refers to design and states that *inter alia* the proposal does not represent a satisfactory urban and architectural design response for the site, is unsympathetic to the character of the area and the Fosterstown Environs. Reference is made to the layout of the development with limited connections to the surrounding area, the extensive areas of surface and semi-basement car parking, the scale design and massing of the proposed dwellings and apartments and the absence of distinguishable character areas in the scheme.



- 12.3.3. Elected Members and the vast majority of observer submissions raise concerns in relation to the scale, design, height and massing of the proposal. Reference is made to the 2/3 storey height limitation along Forest Road, which is an objective of the Fosterstown Masterplan. It is stated that the height is not in keeping with the area and will tower over existing housing estates. The lack of a visual impact assessment from Hawthorn Park is cited. It is stated that higher development should be directed towards the R132. It is further stated that the precedents for higher buildings as cited by the applicant, including that at Omni Park in Santry, are not relevant or applicable to this proposal. It is further stated that the CGI images are CGI images are not accurate and are distorted and minimise the visual perception of the mass, length and height of these blocks. The visual impact of the development is cited as a concern.
- 12.3.4. The applicant has submitted a number of documents relating to the design, layout and visual appearance of the development including an Architectural Design Statement, a Landscape and Visual Impact Assessment, Photomontages and CGI, a DMURS Compliance Statement and a Landscape Design Report. Further justification for the proposal, including the height of same, is also set out in the Statement of Response to APB's Opinion, the Statement of Consistency with Planning Policy (as relates to DMURS) and within the Material Contravention Statement. In general, it is stated that the proposal is compliant with the Apartment Guidelines 2018 and the Urban Development and Building Heights Guidelines 2018, and that the subject site meets the criteria for increased density and additional height as it is located on an infill site within the built-up area of Swords town, well served by high quality public transport. The proposal is assessed against the criteria within the Urban Development and Building Heights Guidelines 2018, including the criteria of SPPR 3, and is also assessed against the 12 criteria of The Design Manual which accompanies the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).
- 12.3.5. Specifically in relation to the height, reference is made objectives of the Fosterstown Masterplan, which include an objective to provide lower heights adjoining existing residential areas in the form of 2-3 storey development along the Forest Road and Boroimhe. The applicant acknowledges that the proposed development contravenes

this height objective, which is also stated as an objective in the County Development Plan.

- 12.3.6. In this regard, the applicant has submitted a Material Contravention Statement specifically addressing the height of the proposed development, as relates to the policies of the Fingal Development Plan. It is stated that, of the above listed objectives for Fosterstown Masterplan, as set out under the Objectives for Swords within Chapter 4 of the Fingal Development Plan, the sole objective where the proposed development is not consistent with is in respect of building heights, particularly along the Forest Road. It is stated within the Material Contravention following that the proposal complies with the criteria of parts (i) and (iii) of Section 37(2)(b) of the 2000 Act. In support of same, an assessment is made under the relevant criteria as contained within the Building Height Guidelines.
- 12.3.7. In relation to Section 28 Guidance, The 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines) provides clear criteria to be applied when assessing applications for increased height. The guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. In this regard, SPPRs and the Development Management Criteria under section 3.2 of these section 28 guidelines have informed my assessment of the application. This is alongside consideration of other relevant national and local planning policy standards, including national policy in Project Ireland 2040 National Planning Framework, and particularly objective 13 concerning performance criteria for building height, and objective 35 concerning increased residential density in settlements.
- 12.3.8. SPPR 3 of the Building Height Guidelines states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.
- 12.3.9. I have addressed the material contravention of the Development Plan in the relevant section below, and I will provide further assessment against the criteria in section 3.2 of the Building Height Guidelines here.

12.3.10. At the scale of the city/town, the first criterion relates to the accessibility of the site by public transport. The site is well served by a number of bus services, providing access to Swords, Dublin Airport and the City Centre. As such, I consider the site has good accessibility to public transport. There are also definitive plans in place to improve public transport services through the Bus Connects Programme and the Metrolink programme, both of which are nearing planning application and revised Railway Order application stage.

12.3.11. The second criterion relates to the character of the area in which the development is located. The site is not a sensitive landscape or a conservation area. The local authority has cited the conservation merits of Cremona House and the impact of the development on same. I have discussed this issue below and conclude the setting of same is not likely to be materially impacted upon. I note also that is not a Protected Structure.

12.3.12. Residential development beyond the immediate boundaries to the west, on the opposite side of Forest Road, is generally two-storey in character. While I do not consider it is necessarily desirable to replicate the existing character, and current policy dictates that more efficient use of land is desirable, especially in areas of good public transport accessibility, there is a need for an appropriate transitions in height. The widening of the existing Forest Road allows for additional height to be facilitated on the site, with the separation distances greater than would otherwise be possible. There is a separation distance of approximately 24m from proposed development to the nearest property at No. 1 Hawthorn Park, and as such in my view the 6 storey height at the corner of the widened Forest Road and the proposed Link Road is appropriate. However I consider the transition to a 9 storey height on Block A to be abrupt and would have a dominant visual impact on the area. This 9 storey element would be a dominant feature in the area, even from longer views such as River Valley Drive, located approximately 110m the north-west of the site, on an elevated site. While I note the conclusions as set out in the applicant's Landscape Visual Impact Assessment in relation to this view (View 1) wherein it is stated that the visual impact will be slight and neutral, I note the particular location that this view is taken from. A view taken from further south along River Valley Drive would result in a more dominant visual impact. I consider a 9 storey height would be more appropriate either closer to Swords itself, or on the R132 frontage, closer to existing and planned



bus routes, and closer to the Metro. Notwithstanding, I consider there is scope to reduce the height of Block A to a maximum of 8 storeys on the corner of the New Link Road and the internal north-south Spine Road. This, in my view, would be a more appropriate transition in scale and a more appropriate design response to its location. This would necessitate the removal of 3 no. units (Units A-8.1, A-8.2 and A.8.3). I consider that this can be achieved by way of condition.

12.3.13. In relation to Block B, I concur with the view of the Planning Authority that this block is excessive in length. While I consider that the height is appropriate, given the proposed setback from dwellings on the opposite side of the Forest Road, which is a minimum of 31.7m, the proposal would appear monolithic and overbearing in nature, given lack of modulation within this block. I note that the Landscape Visual Impact Assessment refers to the view towards this Block from River Valley Grove (View 16) and it is stated that the visual impact from this view towards Block B would be moderate and negative. The omission of the middle element of this block, and the creation of two distinct blocks, would result in a far more satisfactory visual impact, in my view and would go far in reducing the monolithic nature of this elevation, when viewed from other vantage points on Forest Road and from other vantage points from River Valley Grove. This would also improve the amenity internally to the courtyard (see further discussion of this below). This would necessitate the removal of 10 no. units (Units B-1.9, B-1.10, B-2.10, B-2.11, B-3.10, B-3.11, B-4.10, B-4.11, B-5.10 and B5-11). I consider that this can be achieved by way of condition.

12.3.14. Notwithstanding the sensitivities opposite the site, which I consider have been addressed by the amendments suggested above, given the scale of the site, the site has the opportunity to create its own character. In this regard, the creation of defined street edge of 5 and 6 storeys along Forest Road, and of 6 and 8 storeys (subject to amendments) along the new Link Road, and the creation of new streets and open spaces, including a new public park (albeit one that is temporary in nature), will make a positive contribution towards place-making, as required by the Building Height Guidelines. The retail units and crèche in Block A create an active frontage in close proximity to the main entrance of the site.

12.3.15. The development also provides for permeability through the site with the partial completion of the link road, and the provision of a cycle and pedestrian walkway (in advance of the completion of the Link Road) which will allow access from the Forest

Road through to the R132 which will be of significant benefit to both the future occupiers of the development and to existing residents in the area. Future links to the lands to the south and a future additional access from the Forest Road, is also provided for.

12.3.16. The proposed development creates a distinctive development on the site and will form a positive addition and new landmark for the area, subject to the amendments above. As a result, this will improve the legibility of the area. In terms of the creation of character areas, I do not consider that the scale of this proposal would warrant the creation of distinct character areas, but it would be expected that later phases of development would seek to create development that are distinct from previous phases.

12.3.17. The proposal is also formed of a mix of 1 (125 no), 2 (146 no) and 3 (7 no) bed apartments units that positively contributes towards the dwelling mix for the area, which at present is dominated by two-storey suburban dwellings.

12.3.18. At the scale of site/building, I have noted my concerns in relation the height of Block A above and my concerns in relation the massing of Block B, and have suggested amendments to deal with same. In this regard, and subject to these amendments, I consider that the scale and form of the proposed buildings are appropriate for the site. The higher elements of the proposed development are set in away from residential areas and take advantage of the opportunity to create a unique character for the development. The layout allows for the creation of a courtyard area, which is open to the south, allowing maximum light penetration. The higher 6 and 7 storey elements along the north-south spine road also allow for a creation of a defined street edge along this internal road.

12.3.19. The submitted Daylight/Sunlight Assessment concludes the impact on surrounding properties will be in line with BRE Guidelines (see further discussion of same in the relevant section of this report). Other relevant specific assessments have been submitted, as required by the Building Height Guidelines including an Architectural Design Statement, a Landscape and Visual Impact Assessment, Photomontages and CGI, a DMURS Compliance Statement and a Landscape Design Report.

12.3.20. Overall, I am content that the height and massing of the development, subject to conditions, will enhance the character of the area and I find that the proposed

development satisfies the criteria described in section 3.2 and therefore SPPR 3 of the Building Height Guidelines.

12.3.21. In relation to the 12 no. criteria in the Urban Design Manual that accompanies the Sustainable Residential Development in Urban Areas (2009), compliance with same is considered in Section 2.4 of the Architectural Design Statement. I have considered the issue of context above, and subject to the amendments as suggested above, I consider the proposal responds well to its context. Connections and permeability are discussed above and the proposal complies with this criteria. Inclusivity is considered in the design, including the provision of a range of apartment types providing for different households. A variety of active spaces are provided including the play areas and the internal amenity space. The proposal makes efficient use of land and creates a distinctive development, as discussed above. The layout of the development is considered to be appropriate and high quality public realm is provided. The proposal meets and exceeds apartment standards and provides for a mix of users, and provide a good standard of accommodation for end users (see relevant discussion below). The location of the proposed parking is considered appropriate (see Section 12.6 below) and the detailed design of the proposal, including the landscape proposals, is of high quality.

#### Built Heritage/Conservation

12.3.22. The report of the Conservation Officer, as included with Fingal County Council's submission, states that Cremona House to the north is of significant and should be considered under the next review of the Record of Protected Structures. The Conservation Officer raises serious reservations and concerns about the visual impact of the proposed 9-storey height of Block A.

12.3.23. In relation to same, I note that Cremona House is set back approximately 68m from the nearest proposed built form and the setting of same is not likely to be materially impacted upon. I note also that is not a Protected Structure.

#### 12.4. Material Contravention

12.4.1. In their submission on the application, the Planning Authority state that the proposal represents a Material Contravention of Objectives SWORDS 6, SWORDS 7, PM14 AND PM15 of the Fingal Development Plan 2017-2023 along with associated descriptive policy contained within the text of PM15 regarding the Fosterstown



Masterplan and does not comply with the Fosterstown Masterplan (May 2019) with regards to height, density, phasing and the associated improvement to infrastructure. Elected Members also state the proposal represents a Material Contravention of the Development Plan and the Fosterstown Masterplan. I shall deal within each of the above elements in turn.

- 12.4.2. Objective SWORDS 6 refers to *inter alia* the need to prioritise the early construction of critical infrastructure, including but not limited to, the Fosterstown Link Road. The applicant is delivering an element of this road, as well as other infrastructure including improvements to the Forest Road, and as such I do not consider that the proposal is a Material Contravention of this objective.
- 12.4.3. Objective Swords 7 states 'Promote the development of Swords as a multi-modal transportation hub'. This is not within the control of the applicant to deliver but I note that the development takes cognisance of, and provides links to, existing and future public transport nodes. As such I do not consider that the proposal is a Material Contravention of this objective.
- 12.4.4. Objective 14 refers to the preparation of masterplans, and the need to secure implementation of these plans and the achievements of the specific objectives. Objective OM 15 refers to the implementation of masterplans. I do not consider the proposal to be a material of these objectives *per se* but the Development Plan does make reference to the specific objectives to be contained within the Fosterstown Masterplan which I have considered below.
- 12.4.5. A large number of observer submissions have stated the proposed development materially contravenes the residential zoning of the area and would be a material contravention of the Development Plan and the Masterplan, as relates to height and density objectives. Specifically it is stated that the material contravention of the density objectives of the Fosterstown Masterplan is not referred to within the Statement of Material Contravention.
- 12.4.6. In relation to the zoning of the site, the site is zoned for residential development, which also allows crèche and retail provision, and therefore there is no material contravention of the zoning objective.
- 12.4.7. In relation to other specific objectives that pertain to this site, Objective SWORDS 27 of the Fingal Development Plan refers to the preparation and implementation of

Local Area Plans and Masterplans, including the Fosterstown Masterplan. The main elements of to be included within each plan are outlined in the Development Plan and for the Fosterstown Masterplan the objectives are as follows.

- Provide for required road improvements including: the construction of the Fosterstown Link Road; realignment and improvements to the Forrest Road and improvements to the R132 (including Pinnock Hill) as part of the phased development of the Masterplan Lands.
- Provide for a vehicular connection to the adjoining MC zoned lands to the north.
- In order to protect existing residential amenities, where development immediately adjoins existing residential development, the heights of such development shall be restricted to 2-3 storeys.
- Future development shall provide a strong urban edge with attractive elevations which satisfactorily address, overlook and provide a high degree of informal supervision of the R132, the Forrest Road and the Fosterstown Link Road.
- Consider the provision of a hotel at a suitable location at Cremona within the Fosterstown Masterplan Lands.
- Facilitate the indicative route for new Metro North through these lands and an appropriate relationship with the indicative route for new Metro North at this location.
- The existing stream which crosses the lands shall be maintained within a riparian corridor.
- The majority of the public open space shall be provided along the stream and it shall link into the existing public open space at Boroimhe.

12.4.8. Of the objectives above, and as acknowledged by the applicant, it is my view that the proposal materially contravenes that objective as relates to height that is 'where development immediately adjoins existing residential development, the heights of such development shall be restricted to 2-3 storeys'. As such it can be interpreted that the heights along Forest Road, where there is residential development opposite the site, are restricted to 2-3 storeys.

12.4.9. While the Fosterstown Masterplan contains provisions as related to height and density, in particular restricting the heights to 2 and 3 storeys along Forest Road (with the majority of the frontage being 2 storey) and limiting the net density of the Fosterstown Masterplan to between 105 and 115 units per hectare, I note the non-statutory nature of this plan (which is highlighted on Page 3 of Part A of the Swords Masterplans), and while the proposal does not comply with the above provisions of the Masterplan, I do not consider that the Board is precluded from granting permission in this instance, having regard to the provisions of Section 9(6)(a) and (c) of the Planning and Development (Housing) and Residential Tenancies Act 2016. These provisions specifically refer to material contraventions of development plans or local area plans only. The Planning Authority do not refer to a material contravention of the Fosterstown Masterplan within any of the 4 no. recommended reasons for refusal, although it is not that the proposal does not comply with this masterplan.

12.4.10. In relation to the provision of a school, I note that Map 8 of the Fingal Development Plan (Swords – Sheet No. 8) indicates a proposed school within the Masterplan Area. The Planning Authority have not stated that the proposal is a material contravention of this map based objective and as such to my mind, the location of same is indicative and is to be provided within the Masterplan Area Lands. The applicant has indicated that an area of land is to be reserved for a school in Phase 2 of the development of this landholding. As such, the non-provision of a school in this phase of the development is not a material contravention of this map based objective, in my view. The Fosterstown Masterplan indicates that that a school is to be provided in a location similar area to that area of land reserved for a school within Phase 2 of the development of this landholding (as shown on Drawing Number P-S-0-9 Proposed Phasing).

12.4.11. The applicants have stated that the proposal may be considered a Material Contravention of the Car Parking Standards as set out in Table 12.8 of the Development Plan and the Material Contravention Statement sets out a justification for the level of car parking provided and it is stated the quantum of parking justified in the context of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018, which seek to reduce car parking standards in central /accessible urban locations sites. The Planning Authority



have not stated that the proposal represents a Material Contravention of the Development Plan, as relates to parking standards, but raise an objection to the quantum of car parking provided and seek additional parking in line with the standards as set out in Table 12.8. Observer submissions state that the proposal does not meet Development Plan standards and that the car parking provision is seriously deficient.

12.4.12. The car parking standards as set out in Table 12.8 appear to be supported by Objective DM113 of the Development Plan and this states that, *inter alia*, the number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8. As such there is a specific objective within the Development Plan that refers to the quantum of parking to be provided. Having regard to Table 12.8 of the Development Plan, I calculate a maximum parking demand of 415 spaces (358 for the residential element and 56 spaces for residential visitor parking). For the crèche element table 12.8 indicates a maximum requirement of 0.5 spaces per classroom, generating a maximum parking requirement of 1.5 spaces. The applicants are providing a total of 206 no. car parking spaces are proposed to service the residential element and 5 no. set down spaces to serve the crèche facility. As such it is my view that, given that there is a specific objective (rather than a standard) within the Development Plan, that requires compliance with parking standards, the proposal would materially contravene this objective. As such the proposal would constitute a material contravention of Objective DM113 of the Fingal Development Plan.

12.4.13. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.

12.4.14. Paragraph (b) of same states 'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land'

12.4.15. Paragraph (c) states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'

12.4.16. The Planning and Development Act 2000 (as amended) provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are as follows:

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

12.4.17. Should the Board be minded to invoke Article 37(2)(b) in relation to this current proposal, I consider that they can do so, having regard to the relevant criteria contained therein, and as set out below.

12.4.18. In relation to the matter of strategic or national importance, the current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature. National policy as expressed within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 fully support the need for urban infill residential development, such as that proposed on this site.

- 12.4.19. In relation to the matter of conflicting objectives in the development plan, no parties have raised this as an issue and I do not consider it applicable in this instance.
- 12.4.20. In relation regional planning guidelines for the area and Section 28 Guidelines, the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs. In relation to Section 28 Guidelines of particular relevance are the Urban Development and Building Height Guidelines (2018) which state that *inter alia* that building heights must be generally increased in appropriate urban locations, subject to the criteria as set out in Section 3.2 of the Guidelines, and I have assessed the proposal against these criteria in detail above. The Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), supports increased densities in appropriate locations and I have assessed the proposal in relation to same above. I have also assessed the proposal against the relevant criteria in the associated Urban Design Manual.
- 12.4.21. In relation to car parking, Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018, seek to reduce car parking standards in central /accessible urban locations sites. I have considered the accessibility of the site in the relevant sections of this report, and the acceptability of the quantum of parking proposed in Section 12.6 of this report, and it is my view that the quantum of parking proposed by the application is in line with these Section 28 Guidelines.
- 12.4.22. In relation to the pattern of development/permissions granted in the area since the adoption of the Development Plan, there are no other relevant permissions in the area that the Board should be referred to and as such and I do not consider this criteria is applicable in this instance.
- 12.4.23. In conclusion, should the Board be minded to invoke the material contravention procedure, as relates to Development Plan policies pertaining to height, I consider that the provisions of Section 37(2)(b)(i) and (iii) and have been met, and in this regard I consider that the Board can grant permission for the proposal.

## 12.5. Residential Amenities/Residential Standards

### Daylight



- 12.5.1. The submitted Daylight and Sunlight Assessment considers daylight provision in the proposed habitable rooms by way of the average daylight factor (ADF). The BRE Guidance (Site Layout Planning for Daylight and Sunlight) sets out minimum values for ADF that should be achieved and these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. The BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylit living room.
- 12.5.2. The submitted assessment considers 57 No. rooms and it is reported that the ADF value in 56 No. of these assessed spaces being above the recommended level as set out in the BRE Guidelines with 1 No. room not meeting the guidelines. It is stated in the report that the unit that does not meet the guidelines is the living dining area of unit 16 located in the Block B. This room, which receives 75% of the target value, is likely to require supplementary electric lighting for larger portions of the day. This room type has been calculated on the first floor, also not meet the guidelines, but will meet the guidelines on the second floor as the ADF naturally increases on the subsequent higher floors.
- 12.5.3. Section 6.10 of the report sets out the results for the ADF study. For those units considered in Blocks A and B, 1 room in Block B does not achieve the BRE standard (Living/Dining Room of Apt 16 – achieves 1.13% which is 75% of the standard of 1.5%). It is unfortunate that the results of the upper floors of this Block are not set out in the relevant table, although the report text states that the same room of the first floor unit does not achieve the standard, but floors above this are assumed to. I note also that Table 6.14 erroneously refers to Block A, whereas Block B is highlighted in the associated plan (Fig 6.21). Table 6.15 also erroneously refers to Block A, and the associated plan highlights Block B but appears to give a floor plan of Block C. However, it is clear from the Floor Plans in Fig 6.21 and 6.22 that Blocks B and C have been assessed respectively.
- 12.5.4. While I note that the report does not consider the second floor level of Block B, which would have confirmed, or otherwise, that all units achieve the required ADF, it is likely that the units on this floor achieve the required standard, given the minor shortfall in Unit 16 at ground floor level, and that the ADF values will increase on upper floors.

- 12.5.5. The report shortfalls are marginal in my view, and overall the level of residential amenity is acceptable, having regard to internal daylight provision.

Proposed Outdoor Amenity Areas

- 12.5.6. The BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on March 21st. Section 6.81 of the report sets out that all of the proposed external amenity spaces (Amenity Area 1, Amenity Area 2 and the Creche Play Area) within the scheme receive at least two hours of sunlight in at least 50% of the space on 21<sup>st</sup> March, in line with BRE Standards.

Public, Communal and Private Open Space

- 12.5.7. In terms of Public Open Space the applicants proposed to provide a temporary area of Public Open Space as part of Phase 1 of the overall development of these lands. This is located to the north-east of the site and the total area provided is 3385 sq. m. It comprises of an area of open space, kickabout area, pedestrian pathways and an area which has retained the existing treeline.
- 12.5.8. The Planning Authority note that the lack of public open space is striking in this development and the layout of the proposed areas of open space, including a temporary open space flanked by car parking is poor. It is further stated that the temporary open space should be provided as a permanent amenity to the public.
- 12.5.9. A number of observers note that the open space standards of the Swords Masterplans should be adhered to.
- 12.5.10. The Fingal Development Plan sets standards for Public Open Space, the overall standard for public open space provision is a minimum 2.5 hectares per 1000 population. In general this shall be provided at a ratio of 75% Class 1 and 25% Class 2. Objective PM52 requires a minimum public open space provision of 2.5 hectares per 1000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. This is also set out in Objective DMS57. Objective DMS57 requires *inter alia* a minimum 10% of a proposed development site area be designated for use as public open space.

12.5.11. The proposed development provides for 3,385 sq.m of public open space to serve the proposed development which equates to 12.8% of the overall site area (2.64 ha) and 18% of the net developable area (1.85 ha). A portion of the public open space being provided in Phase 1 is temporary open space (1,608 sqm). As part of Phase 2 of the overall development this portion of open space will be developed

12.5.12. While I note the concerns of the Planning Authority in relation to this area of open space, I consider the overall quantum acceptable. I also note the need for the phased development of these lands, and as such the proposal to have a portion of the proposed open space as a temporary space is appropriate, with a view to providing replacement open space at a future point. The applicant's phasing proposals state that Phase 2 will consist of the *inter alia* the completion of the riparian corridor resulting in c. 8,300 sqm of public open space.

#### Communal Open Space

12.5.13. A total of 1,528.2 sq. m. of communal open space is provided. Design Standards for New Apartments (2020) sets out standards for communal amenity space (Appendix 1 of same). Communal Amenity Space and Private Amenity Space is calculated as 4 sq.m for studio, 5 sq.m for a 1 bed unit, 6 sq.m. for a 2 bed (3 person) 7 sq.m. for a 2 bed (4 person) unit and 9 sq.m. for 3 bed unit. The overall requirement for both would therefore equate to 1,667 sq. The outdoor communal space is provided within central courtyards and equates to 1,528.3 sqm. The proposed development will also provide internal amenity space equating to 218.8 sqm.

12.5.14. In terms of the overall standard of same, I note the external communal spaces will receive good levels of sunlight, given the open nature of the southern end of the site, and are sufficiently overlooked by the proposed units. A variety of recreational features are included, including a variety of play areas. These communal spaces are car free areas providing safe environments for future residents.

#### Private Open Space

12.5.15. All private amenity spaces in the development comply with or exceed the minimum required floor areas for private amenity spaces.

#### Dual Aspect



12.5.16. I note Specific Planning Policy Requirement 4 (SPPR4) of the aforementioned Apartment Guidelines, which state that:

'In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply

(i) A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate.

(ii) In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.

(iii) For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects'.

12.5.17. It is stated within the Statement of Consistency that the number of dual aspect units is 160 units, which equates to 58% of the overall number of units. The Apartment Guidelines state that sites that are not constrained, such as in larger apartment developments on greenfield or standalone brownfield regeneration sites where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments. Ideally any 3 bedroom apartments should be dual aspect.

12.5.18. I note that there are a number of apartment types (Apart Types APT-2B, APT-3B, APT-4C, APT-4D and APT-4F) that are stated as being dual aspect, whereas this is achieved only by way of a bay window on the floorplan and I do not consider that these are in fact dual aspect. I have set out the total number of these unit types below:

Apt Type	Number of units
APT-2B	16
APT-3B	2

APT-4C	25
APT-4D	2
APT-4F	1
<b>Total</b>	<b>46</b>

12.5.19. My calculation is that the total dual number of dual aspect units then is 114 units, a total of 41%. However, I am also of the opinion that given the locational context of the site, close to existing and proposed transport links, including proposed high frequency bus corridors and a high frequency metro route and within walking distance of Swords Town Centre, that the 33% requirement for dual aspect units applies in this instance and am satisfied with the quantum of dual aspect units provided.

#### Mix

12.5.20. The proposed development provides for 125 no. 1 bed units (45%), 146 no. 2 bed units (52.5%) and 7 no. 3 bed units (2.5%) which is compliant with SPPR 1 of the apartment guidelines.

12.5.21. I note the provisions of SPPR 1 of the Apartment Guidelines (2018) which state that Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms.

12.5.22. I consider the mix to be acceptable in this instance and is compliant with SPPR 1 as outlined above.

#### Floor Area

12.5.23. The apartments are designed to exceed minimum standards with the majority of units sized to be at least 10% larger than the minimum space standards.

### **12.6. Surrounding Residential Amenity**

12.6.1. The nearest residential dwellings are located to the west of the site at Hawthorn Park and River Valley Grove, with a number of properties fronting onto Forest Road including 'The Dormer', 'Oulart Cottage'. There is also a residential property to the north of the site, 'Cremona'.

12.6.2. The majority of observer submissions refer to the impact on residential amenity, including loss of daylight and sunlight/overshadowing, including impacts on the morning sun and overlooking/loss of privacy. The Planning Authority's recommended reason for refusal No. 4 refers to overlooking and loss of amenity.

#### Daylight and Sunlight

12.6.3. In terms of daylight and sunlight impacts, the applicants have submitted a Daylight and Sunlight Assessment. This considers the impacts on daylight to the closest residential properties by way of assessing the effect of the development on the Vertical Sky Component (VSC) of neighbouring windows. The properties that are assessed are as follows:

- Cremona, Forest Road; 1-2 Hawthorn Park; 60-63 River Valley Grove; The Dormer, Forest Road; Oulart Cottage, Forest Road; 27A River Valley Grove and 26B River Valley Grove.

12.6.4. Paragraph 2.2.7 of the BRE Guidance (Site Layout Planning for Daylight and Sunlight - 2011) notes that, for existing windows, if the VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this would be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in daylight.

12.6.5. The impact on sunlight to neighbouring windows is assessed by way of assessing the effect of the development on Annual Probable Sunlight Hours (APSH). The BRE Guidance notes that the sunlighting of an existing dwelling may be affected if the centre of the window affected:

- receives less than 25% of annual probable sunlight house or less than 5% of annual probable sunlight house between 21<sup>st</sup> September and 21<sup>st</sup> March and
- receives less than 0.8 times its former sunlight hours during either period and
- has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

12.6.6. The BRE Guidelines suggest that windows with an orientation within 90 degrees of due south should be assessed. Therefore, windows that do not have an orientation



within 90° of due south have not been assessed for the purposes of the report. The properties assessed are:

- Cremona, Forest Road; 1-2 Hawthorn Park; 60-63 River Valley Grove; The Dormer, Forest Road; Oulart Cottage, Forest Road; 27A River Valley Grove and 26B River Valley Grove.

12.6.7. In terms of impacts on VSC values, the report notes that impacts on all assessed properties will be within BRE Guideline values. I note that for Window number 1d#, located to the rear of No. Hawthorn Park, the VSC value falls below 27%. The existing VSC value is 30.03% and the proposed value is 24.04% (a drop of 20% on the original value). As such it is within BRE guidelines. Similarly, window 1e of the same property sees proposed VSC values of below 27% but the reduction in this case is not greater than 20%.

12.6.8. I note that there are two side windows to No. 1 Hawthorn Park which have not been assessed but these are obscured glazed windows and appear to serve bathroom areas. Similarly there is a side window of 27A River Valley Grove at second floor level that appears to be bathroom area. It is unclear if window No. 27g refers to the first floor side window or the one of the ground floor side windows. The impact on this window is within BRE Guidelines. There are however two number ground floor windows and an external glazed door at ground floor level to the side elevation of No. 27A River Valley Grove and these do not appear to be all been assessed. There is no information on file as to what rooms are served by these windows. The submissions from No. 27A refers to *inter alia* the impact on daylight. However, given the location of this property, relative to the built form of the development (it is located 35m to the south-west of the nearest built form – Block B), there is unlikely to be a significant impact on these windows as a result of this development.

12.6.9. In relation to the impacts on APSH, it is reported that impact on all windows assessed are within BRE Guidelines. As with the VSC assessment above, it is unclear what window 'window No. 27g' refers to. However, impacts on this property are unlikely as per my assessment above.

#### Sunlighting to Existing Neighbouring Gardens

12.6.10. The submitted Daylight and Sunlight Assessment considers the impact on sunlighting to existing neighbouring Gardens to the north of the proposed development. The properties considered were as follows:

1 and 2 Hawthorn Park; 60, 61, 62 & 63 River Valley Grove; Oulart Cottage; The Dormer

12.6.11. The BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on March 21st. Table 6.7.1 sets out the result of the analysis and it shows that BRE Guideline Targets are achieved.

12.6.12. A Shadow Study has also been provided that provides a visual representation of the shadows cast by the proposed development over certain times of the year. I note neighbouring residents have expressed specific concerns in relation to the impact on morning sunlight. The shadow study does indicate that there will be some impact on morning sunlight levels to neighbouring gardens, most notable during the March/December periods (and subsequently the autumn/winter/spring periods), resulting from the orientation of these properties relative to the proposed development (they are sited generally to the west of the proposed development). The shadow study demonstrates that these impacts will be reduced later in the day, with the sun coming from a southerly direction. It is my view that the impact on morning sun levels do not impact on surrounding amenity to such a degree as to warrant a refusal of the application. Any development of scale on this accessible urban site would result in some loss of morning sun to properties to the west, in my view. I note also that BRE Guideline targets in relation to sunlighting to garden areas have been achieved. As such I consider the overall impact on sunlighting to surrounding gardens to be acceptable.

#### Overlooking/Loss of Privacy

12.6.13. In terms of overlooking and loss of privacy, the proposed residential units are set back to a considerable degree from surrounding residential dwellings to the east, with the property at No.1 Hawthorn Park being closest to the proposed residential units. This is set back some 24m from the closest units, within Block A. There are no habitable room windows on the side elevation of No.1 Hawthorn Park that face directly towards the proposed development. Notwithstanding the concerns of the

Planning Authority and as raised in Observer Submissions, it is my view that the rear garden of No. 1 Hawthorn Park is sufficiently set back from the proposed development so as to ensure no overlooking results. Where there are front or rear habitable room windows that directly face the proposed units, such as at 60-63 River Valley Grove, The Dormer Forest Road, and Oulart Cottages, Forest Road, there is at setback distance of at least 31.7m which I consider is more than sufficient to ensure no overlooking results.

## 12.7. Traffic and Transportation

- 12.7.1. In relation to traffic and transport issues, have had regard to the Traffic Impact Assessment, the Engineering Service Report (Fosterstown Link Road), the Mobility Management Plan, the Outline Construction Management Plan, the Preliminary Design Report and the DMURS Compliance Statement, the submission from Fingal Council, Prescribed Bodies including the NTA and TII, as well as observer submissions.
- 12.7.2. The Planning Authority submission, in relation to Transport Issues, raises the following have set out a number of concerns which are outlined in detail in Section 8 of this report. This include, but are not limited to, the provision of only one access to the Forest Road and the absence of turning lanes from and to Forest Road. It is also stated that the quantum of parking is below development plan standards and there is concern the development would lead to overspill parking. The submission raises concerns in relation to the proposed cycleway and cycle parking provision. The lack of structural detail in relation to the basement layout has been cited provided. Elected Members also cite the lack of parking and the lack of EV parking.
- 12.7.3. Recommended Reason for refusal No. 2 of the Planning Authorities submission refers to limited connections to the surrounding area and to the extensive areas of substandard surface and semi-basement car and bicycle parking within the development, and it is stated that the development would be contrary to relevant Section 28 Guidelines, including but not limited to the Design Manual for Urban Roads and Streets (2013).
- 12.7.4. The submission from the National Transport Authority supports the regeneration of the site which will be within 500m of bus services on a core bus corridor and 500m of



Metrolink rail services. It is further stated that there is scope to reduce the quantum of car parking provided and this should be considered by the Board.

- 12.7.5. I note that a large number of observer submissions have raised the issue of the lack and quality of existing public transport, possible delays to the delivery of BusConnects and Metro, existing and future traffic congestion, the poor standard of existing road, cycle and pedestrian infrastructure, the lack of parking associated with the development which will lead to overspill parking, the creation of traffic hazards and the inappropriate location of the proposed junction onto the Forest Road. It also stated the location of the crèche will give rise to a traffic hazard. The impact of construction traffic is also raised as an issue.

#### Road Proposals

- 12.7.6. Road Proposals of note within the Fingal Development Plan include Objective SWORDS 6 which refers to the provision of a new road to from the Dublin Road to the Forest Road. Objective SWORDS 27 refers to a requirement for a masterplan for development at Fosterstown. Such a masterplan was adopted in May 2019. It provides a layout for development on the lands including the current site with a new road linking an upgraded junction at Pinnock Hill to an upgraded Forest Road.

#### Public Transport

- 12.7.7. In relation to public transport serving the area, I have considered the accessibility of the site in the relevant section above.
- 12.7.8. The Traffic and Transport Assessments refers to the Bus Connects Project and refers to the proposed A4 frequent bus route runs from Brackenstown Road to Nutgrove that will run adjacent to the development site on the R132 and includes stops in Santry, Drumcondra, City Centre, O'Connell Street, Georges Street, Rathmines, Rathgar and Terenure.
- 12.7.9. In relation to the proposed Metrolink Project, information on the Metrolink Website indicates that a Railway Order for the project will be made in June 2021. A metro station is proposed at Fosterstown, which will be an approximately 500m walk from the north-eastern point of the proposed development site.

#### Proposed Road Cycle and Pedestrian Infrastructure

##### Link Road

12.7.10. The proposed development is to include the Phase 1 of the Fosterstown Link Road, The Link Road provision is outlined in detail in the Preliminary Design Report Document and junction options for the Pinnock Hill Roundabout are set out, with a signalised junction being the emerging preferred option. This element of the link road is not being proposed under this Phase of the proposal.

12.7.11. In relation to the proposed Link Road, and the indicative designs for future phases of same, as outlined in the Preliminary Design Report Document, the Planning Authority have not raised an in principle objection to the delivery of same but do not that the strategic importance of the Fosterstown Link Road means that this development will have a broader negative impact on the Swords area. Reference is also made within the Planning Authority's submission to the change to the new Fosterstown Access Road to Pinnock Hill (currently being redesigned by the NTA) and it is noted that Noted that the R132 connectivity project does not include Pinnock Hill Roundabout or the Fosterstown Access Road. However it is not apparent that the proposals being set out by the applicant, in this, and in future phases, would prejudice the delivery of the R132 connectivity project. The submission from the NTA, as relates to the proposed Link Road acknowledges the requirement for the link road in the context of improved accessibility within Swords.

12.7.12. The portion of the link road provided under this application, and as part of future phases of development, will deliver a strategic objective of the Development Plan, and of the Fosterstown Masterplan and such is welcomed.

#### Forest Road

12.7.13. It is proposed to implement infrastructure improvements on the Forest Road which involves widening the existing road and the provision of segregated cycle and pedestrian lanes on both sides of the road. Signalised junctions are proposed at the junction of the new link road/Forest Road/Hawthorn Park, and at the junction of the Forest Road. These road improvements are outlined in detail in the Preliminary Design Report Document. Cycle paths of 2.5m width are proposed along the Forest Road. I note the Planning Authority have stated that dedicated turning lanes should be provided on the improved Forest Road, in order to access the new Link Road. However the provision of same would necessitate additional land take within the development site, and in my view has not been justified. Furthermore I do not

consider it possible to condition such a redesign, should the Board consider the provision of such turning lanes are required, given the need to substantial setbacks to accommodate same, with knock on implications for the built form on site. It is my view that the upgrade of the Forest Road, as proposed by the applicants, after what appears to be comprehensive consultation with the Planning Authority, is a positive contribution to the area, providing much needed pedestrian and cycle infrastructure improvements and improvements to road traffic safety.

#### Wider Road Improvements

12.7.14. As referred to in Fingal County Council's submission, the R132 Connectivity Project (which is being delivered by the NTA and Fingal County Council) has recently undergone a non-statutory consultation process. This relates to improvements to the R132 which include *inter alia* upgrade works between the north of Pinnock Hill Roundabout and north of Estuary Roundabout, to facilitate installation of new protected cycle and pedestrian facilities, retention of one bus and one general traffic lane in each direction, removal of hard shoulders and/or general traffic lanes, and reduction in speed limit to 50km/h. It does not include any works to the Pinnock Hill Roundabout itself<sup>1</sup>. In relation to same, the 'Swords to City Centre Core Bus Corridor Preferred Route Option Report' confirms that the existing roundabout at Pinnock Hill will be modified to a fully signalised junction with pedestrian and cyclist facilities and the associated plans indicate that the future phases of the Fosterstown Link Road will tie into the R836 just north of the new Pinnock Hill signalised junction.<sup>2</sup>

#### Access/DMURS

12.7.15. Access to the proposed development will be via the proposed Link Road. In terms of compliance with DMURS, a DMURS Statement of Compliance has been submitted. This refers to the Forest Road Improvements, which include 2m off-road cycle facilities. It is stated that the internal street and road network contains various design elements including dedicated cycle lanes and segregated space areas. These elements are not immediately obvious in the application drawings. I consider that a condition would be sufficient requiring the applicant to highlight these elements in more detail. While I note there is surface parking along the north-south spine road,

<sup>1</sup> Details of this project were accessed via <https://consult.fingal.ie/en/consultation/r132-connectivity-project-non-statutory-consultation> (accessed 14th January 2021).

<sup>2</sup> <https://busconnects.ie/media/2111/02-draft-preferred-route-options-report.pdf>



and along the future access road to the south of the development, the provision of same should act as a traffic calming measure should future areas of development come forward and utilise these roads as thoroughfares. I note the internal pedestrian links within the courtyard areas are traffic free and provide a safe environment.

12.7.16. The development allows for the future extension of the link road to the south and a future access junction to the Forest is also proposed which will serve service both the future phases of the Fosterstown Masterplan and the future school site. As such there is sufficient permeability proposed to surrounding sites.

#### Car and Cycle Parking

12.7.17. Section 12.8 of the Fingal Development Plan sets out car parking standards for various development types.

12.7.18. A total of 206 no. car parking spaces are proposed. At basement level it is proposed to provide 104 car parking spaces and 214 no. bicycle spaces. 102 no car parking spaces are proposed at surface level. This includes 10 no. accessible spaces and 4 no. EV charging spaces. The overall ratio is 0.74 car parking spaces for the residential element. There are 5 no. set down car parking spaces to serve the proposed creche facility.

12.7.19. 376 no. bicycle spaces are being provided with the majority of 214 no. contained at semi-basement level in compliance with national guidance. The remainder of bicycle parking spaces will be dispersed throughout the development. The applicants state if the 'normal' standards are applied as per Table 12.8 of the Development Plan, there would be a requirement for 358 no. spaces for the residential element of the scheme and 55 no. visitor car parking spaces

12.7.20. The applicants have submitted a Material Contravention statement in relation to car parking which sets out a justification for the level of car parking provided and it is stated the quantum of parking justified in the context of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018, which seek to reduce car parking standards in central /accessible urban locations sites, given the proximity of the site to existing and proposed public transport routes. Section 6 of the Traffic Impact Assessment sets out the car parking strategy. It is contended that given the location of the site within Zone 1 (as defined above) a reduced parking provision should apply. It is also stated that the provision

is in line with guidance in the Guidelines for Planning Authorities, Design Standards for New Apartments (March 2018) for both central and/or accessible urban locations and for intermediate urban locations. Previous Board decisions in which a similar or lower quantity of parking has been proposed are cited. Survey data is also presented that indicates that, despite high levels of car ownership, between 32 and 62 % of workers in the area use their car for their daily commute, indicating that a significant portion of car parking is used for car storage. It is further stated that given the proposed development consists solely of apartments, there will be a lower associated demand for parking, relative to traditional housing developments.

12.7.21. The submission from the Planning Authority states that the proposed surface parking on the spine and cul-de-sac roads is substandard and not in accordance with DMURS guidance, and state that the quantum of parking is 214 spaces below development plan standards. Concern is raised in relation to overspill parking and requests ABP takes into account the nature of the area and note that retrofitting a parking solution is not always possible. Fingal County Council consider that a Parking demand of 413 spaces results from the development with a minimum standard of 285 spaces for the residential element and 11 spaces for crèche. It is further stated that there would be a parking demand of up to 7 staff parking spaces and that there should be at least 8 set down spaces.

12.7.22. The submission from the National Transport Authority states the Board should consider reducing the quantum of parking, given that the proposal will be within 500m of bus services on a core bus corridor and 500m of Metrolink rail services.

12.7.23. Having regard to Table 12.8 of the Development Plan, I calculate a maximum parking demand of 415 spaces (358 for the residential element and 56 spaces for residential visitor parking). For the crèche element table 12.8 indicates a maximum requirement of 0.5 spaces per classroom, generating a maximum parking requirement of 1.5 spaces.

12.7.24. Notwithstanding the concerns of the Planning Authority and of Observer submissions, and notwithstanding the comments of the NTA, I consider the overall quantum of parking is acceptable having regard to the accessibility of the site to existing and proposed Public Transport routes. I also note that the site is proximate to the town centre of Swords, with its associated services, making walking and

cycling to the town a viable option for residents, reducing the reliance on private car use.

Impacts on the surrounding road network.

12.7.25. The Planning Authority has not raised any objection in relation to impacts on the surrounding road network in terms of traffic volumes, although as noted above, have raised concerns in relation to other transport issues, including the potential for overspill parking. The majority of observations have raised the issue of existing and potential traffic congestion.

12.7.26. The Traffic Impact Assessment considers the impact of various scenarios on a total of 6 no. junctions as follows:

- Junction 1: Dublin Road/Forest Road/Main Street;
- Junction 2: R132/R125/R132/R836;
- Junction 3: R132/L2305 Nevinstown Lane/L2300;
- Junction 4: Forest Road/L2300/Rathingle Road;
- Junction 5: Forest Road/Hawthorn Road;
- Junction 6: Forest Road/River Valley Road.

12.7.27. The assessment considers the the Do-Nothing, Do-Something and the Do-Maximum scenarios. The Do-Nothing Scenario considers no development taking place in the local area and only allowance for natural background traffic growth. The Do-Something considers natural background traffic growth and the additional traffic estimated to be generated by the proposed development. The Do-Maximum scenario considers the full buildout of the Fosterstown Masterplan lands in addition to the completion of the Fosterstown Link Road. It is stated within the report that the consideration of future phases of the Fosterstown Masterplan lands, in addition to the use of TII growth factors may have resulted in some element of double counting, and that, therefore, the results can be considered a 'worst case' scenario.

12.7.28. The assessment notes that current links in the area (the R132, the L2300 and the Forest Road) are operating well within capacity. The Do-Something assessment i.e. with the introduction of Phase 1 development and Phase 1 of the Fosterstown Link Road shows that the impact of the proposed 278 no. units is minimal. The results of



assessment indicates that the proposed development will have a low impact on the operation of the links and junctions in the local network. The proposed development entrances have been shown to operate well within normal capacity limits and will have no negative impact on the operation of the local road network.

12.7.29. Having regard to the above, and having regard to the reduced level of car parking provision, the availability of existing and planned bus and metro services and having regard to the existing and proposed cycle and pedestrian network, I am satisfied that the impacts on the surrounding road network will be limited, in terms of additional traffic volumes.

## 12.8. Flood Risk

12.8.1. Section 9.3 of the National Planning Framework (NPF) includes guidance for water resource management and flooding with emphasis on avoiding inappropriate development in areas at risk of flooding. National Policy Objective 57 requires resource management by “ensuring flood risk management informs place-making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities”.

12.8.2. A Flood Risk Assessment (FRA) has been submitted (dated September 2020) with the application. The FRA refers to the OPW's Flood Extent Map and it is noted the development site falls outside the 0.1% AEP flood plain and that the site is not at risk of Fluvial Flooding. In relation to Pluvial Flooding, the FRA notes that the closest record flood event was at the Pinnock Hill Roundabout to the east of the site in 2002. It is concluded that there is a low likelihood of flooding from surrounding areas. In the absence of flood risk management strategies the risk of overland flooding from the subject site is considered moderate. Section 4.6 sets out a number of flood risk management strategies proposed to minimise the risk of pluvial flooding which includes appropriately designed surface water networks and SuDS devices, setting of the floor levels at least 200mm above the adjacent road channel line, source control devices for surface water discharged, including storage in the podium decks to facilitate 1 in 100 year attenuation plus 20% Climate Change. This is then discharged to the new link sewer at a controlled rate of 2l/s/ha. Residual risks from tidal and groundwater flooding were considered to be low. Subject to appropriate

flood risk management, including regular maintenance of the surface water network, residual risk of overland flooding was considered to be low.

12.8.3. The Planning Authority has not raised an objection in relation to flooding issues. An observer submission states that there is not mention of the river or stream which is piped under Bormimhe in the SFRA and that there is a potential flood risk by opening this pipe. It is further stated that there is a high risk of surcharge and that the development will lead to flooding. It is also stated that climate change will increase the likelihood of large one-off rain events. In response to same, it is not stated that within the application documentation that it is proposed to carry out work on the aforementioned culverted river. The risk of surcharging has been addressed via the flood risk management strategies as detailed in the SFRA. In relation to rainfall events, the attenuation storage on site has utilised the standard 20% excess volume to take account of climate change. In relation to potential sewer flooding along Forest Road, Irish Water have not raised any capacity issues in relation to same.

12.8.4. In conclusion, having regard to the location of the site outside of any identified flood zone, the lack of history of flooding on the site itself, to the conclusions of the Flood Risk Assessment and to the surface water management proposals as set out therein and in other relevant application documents, and the lack of an objection from the Planning Authority, as relates to flooding issues, I do not consider that the proposal will increase flood risk on this site or on surrounding sites, subject to conditions.

## 12.9. Site Services

12.9.1. The Engineering Services Report (September 2020) details that the proposed new link road between Forest Road and Pinnock Hill Roundabout will incorporate new Irish Water foul and water supply Infrastructure and that Fingal County Council storm water drainage which will be utilised as connection points for the proposed development.

### Foul

12.9.2. It is proposed to discharge foul water from the proposed development directly to the new drainage infrastructure within the development. Irish Water's submission on the application confirms that there is sufficient capacity in the wastewater network to allow this development of 278 number of units to connect without upgrades. Conditions are recommended.

### Surface Water

- 12.9.3. It is proposed to discharge storm water from the development via 1 No. storm water outfall as illustrated on drawing P5000823 – C001. The 1 No. outfall will discharge at a controlled flow rate of 3.4 l/s. A Storm Water Management Plan will be incorporated in the proposed development using SuDS techniques to treat and minimise surface water runoff from the development. These SuDS devices are detailed within the Engineering Services Report and include source control and site control elements.
- 12.9.4. The Planning Authority have stated that Surface water management should be self-contained within each phases or fit within an overall surface water masterplan for the entire site and it is stated that the proposal fails to achieve either. Further information in respect of SuDs is requested. Conditions are requested.
- 12.9.5. Subject to the conditions as suggested by the Planning Authority, I consider the surface water proposals to be acceptable.

### Water Supply

- 12.9.6. Irish Water have not indicated any supply constraints and the proposed developed will be supplied by the existing water supply network.

### **12.10. Ecology/Trees/Hedgerows**

- 12.10.1. A number of observers have raised concerns in relation to the impact on ecology, the impact on wildlife and habitats, Impact on wildlife including pinemartins, red squirrels, hedgehogs, bats, badgers, birds and wild hare, the impacts on surrounding watercourses, and the impacts on the existing trees and hedgerows. It is stated that existing hedgerows, tree lines and stream provide habitats for species. It is stated that there was no EIAR report on the application website and that it was not possible to formulate an opinion on the possible impacts.
- 12.10.2. An Ecological Impact Statement has been submitted with the application (dated September 2020). Habitats on or close to the site were recorded as Drainage Ditches (FW4), Improved Agricultural Grassland (GA1) which covers the majority of the site. It is stated within the report that the grass was long indicating that the fields were in an unmanaged state. Dry meadows and grassy verges (GS2)[unmanaged],



Scrub (WS1), Hedgerows (WL1) Treelines (WL2) and Mixed Broadleaved Woodland (WD1) were also recorded.

12.10.3. No rare or protected flora were identified within the site. A number of invasive species were identified. No rare or protected mammal species were directly recorded although it is stated that the site could provide habitat for hedgehog. It is stated also that the site could potential support mountain hare, red fox, woodmouse, pygmy shrew Irish stoat and red squirrel although it is noted that the site is surrounded by urban areas making it somewhat isolated. The ECIA is somewhat contradictory in relation to the potential for Red Squirrel as it is ruled out as a potential site for same in the same paragraph of the report (Section 4.4.2). It is noted that the Gaybrook Stream does not offer suitable habitat for otter due to its small size, limited flow/connectivity and overgrown nature.

12.10.4. A total of 20 bird species were recorded on the site during a 2019 survey with 5 additional species recorded during a 2018 survey included Meadow pipit which is a red-listed species.

12.10.5. In relation to bats, it is noted that there are no buildings of man-made structures present within the site of the proposed development, although there is an old estate house and gate house to the north-west of the site which provides considerable roosting potential. The mature treeline running through the centre of the lands were considered to have potential to support roosting bats but no evidence of same was found during the bat survey. Bat activity on the site was low to moderate with 3 no. distinct species recorded.

12.10.6. Potential impacts of the proposed development are set out in Section 6 of the ECIA and these include the loss of the hedgerow habitat along the western boundary, which was considered to be a negative, permanent and significant impact in the absence of compensatory measures. Minor loss of the treeline, as a result of thinning and to allow for the link road, and to allow for the pedestrian/cycle route was considered to be a negative, permanent and slight impact, in the absence of compensatory measures. No impact on the Gaybrook Stream was envisaged. In the absence of compensatory measures, a negative, permanent, moderate impact on some species was possible. In the absence of compensatory measures the, a negative, permanent, moderate impact on bats was possible. A negative,

permanent, moderate impact on bird was expected as a result of habitat loss, in the absence of compensatory measures.

12.10.7. Cumulative impacts are considered in Section 6.7 of the report with a number of plans and projects considered, including a potential development onto the south of the site. Cumulative impacts were ruled out.

12.10.8. Mitigation and enhancement measures are set out in Section 7 and includes measures to protect breeding birds, retention and additional planting of foraging habitat, measures to reduce noise related impacts, measures to protect potential bat roosting habitat as well as bat boxes to compensate for any loss of same, lighting measures to reduce the impact of light spill on bats, measures to protect mammals including appropriate timing for the removal of hedgerow and planting of replacement habitat. Residual impacts are set out in Table 14 and I concur with the conclusions of same. Section 9 sets out that, provided mitigation measures are carried out in full, there will be not any significant impact to any valued habitats, designated site, or individual or groups of species as a result of the proposed development and I concur with same.

12.10.9. The proposed native tree and hedgerow planting was considered to have a net positive impact on the biodiversity of the site.

12.10.10. I consider that, subject to the recommendations of the appraisal being carried out, the impact on ecology will be minimal.

12.10.11. Specifically in relation to bats, I am satisfied that, subject to the measures as outlined in the EclA being carried out there will be no adverse impacts on bats as a result of this development.

12.10.12. Specifically in relation to tree and hedgerows, an Arboricultural Impact Statement, a Tree Constraints Plan and a Tree Survey has been submitted. The Arboricultural Impact Statement, notes that a roadside hawthorn hedge a number trees will be removed to facilitate the upgrading of the existing Forest Road. In addition, additional trees will be removed to facilitate the construction of a new link road from the Forest Road towards the Dublin Road. Tree protection measures are set out for the trees to be retained. These mitigation measures and protection measures should be required by way of condition.

## 12.11. Archaeology

12.11.1. An Archaeological Impact Assessment (dated 3<sup>rd</sup> September 2020) has been submitted with the application. This states that the area contains no monuments listed within the Record of Monuments and Places (RMP) or Sites and Monuments Record (SMR) with the nearest such monument c. 0.4 km to the southeast. It is further noted that the site contains no protected structures, as listed in the Fingal Development Plan 2017–2023, nor does it contain any sites listed in the National Inventory of Architectural Heritage (NIAH). It is stated that the area has been subject to two previous archaeological assessments including geophysical survey and targeted test trenching, in which it was concluded that no further archaeological mitigation would be necessary. The submitted Archaeological Impact Assessment therefore recommends that the development can proceed without any further archaeological mitigation. The submission from the DAU concurs that there are there are no further archaeological requirements with regard to Phase 1 of the proposed development.

12.11.2. I am satisfied therefore that, no significant negative impact on archaeology will result and no further measure are required.

#### 12.11.3. **Other Issues**

##### Aviation

12.11.4. The site lies within Noise Zone C and this is highlighted by the Planning Authority, by the DAA and by observers. The Planning Authority make reference to Objective DA07 which refers to *inter alia* the requirement for noise insulation where appropriate within the outer noise zone. This can be required by way of condition.

12.11.5. In terms of airport operations the IAA and DAA have both made submissions on the application with conditions in relation to noise and crane operations recommended.

Fire Safety/Cladding -This is a not a matter that should be considered as part of this application and it pertains to Building Control issues.

##### Oral Hearing

12.11.6. While a large number of submissions requested an Oral Hearing, no valid Oral Hearing request was received.

#### 12.12. **Planning Authority's Submission including Recommended Reasons for Refusal**



12.12.1. Fingal County Council have submitted a detailed report on the application which highlights a number of areas of concern and I have summarised this in Section 8 of this report. I have considered the concerns of the Planning Authority within the relevant sections of the report and I have sought to address same.

12.12.2. I note that Fingal County Council recommend refusal of the application for 4 no. reasons and the below section specifically refers to and seeks to address the Planning Authority's reasons for refusal, referring back to specific sections of the report where relevant.

12.12.3. Recommended Reason for Refusal 1 states the following:

*The proposed development is considered to be a material contravention of the Fingal Development Plan 2017-2023 (i.e. Objectives SWORDS 6, SWORDS 7, PM14 and PM15) and does not comply with the Fosterstown Masterplan (May 2019) with reference to the protection of existing residential amenities, where development immediately adjoins existing residential development, the heights of such development shall be restricted to 2-3 storeys. The overall proposal is also contrary to the height, density, essential infrastructure provisions and agreed phasing in the published Fosterstown Masterplan (May 2019) and, therefore, the proposed development in its current form would be contrary to the proper planning and sustainable development of the area.*

12.12.4. I have considered the issue of material contravention, height, density, infrastructure provision and phasing in the relevant sections of the report above. I have sought to address the issue of height by recommending a reduction in heights of Block A as detailed in section 12.3 above.

12.12.5. Recommended Reason for Refusal 2 states the following

*Having regard to the core principles for delivery of housing and National Policy Objective 4 of the National Planning Framework which seek to deliver future environmentally and socially sustainable housing of a high standard for future residents and to ensure the creation of high quality urban places, to the Fingal Council Development Plan 2017-2023 which promotes excellences in urban design responses and the promotion of high quality, well designed entries into towns and villages, to the Design Manual for Urban Roads and Streets (2013), to the Sustainable Residential Development in Urban Areas Guidelines for Planning*

*Authorities and Urban Design Manual A Best Practice Guide (2009) and to the Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities 2019 is it considered the proposed development by virtue of:*

*The layout of the proposed development which is predicated on limited vehicular connections to the surrounding area and cul de sac;*

*The extensive areas of substandard surface and semi-basement car and bicycle parking within the development;*

*The scale, design and massing of the proposed dwellings and apartments; and,*

*The absence of distinguishable character areas in the scheme;*

*Does not represent a satisfactory urban and architectural design response for the suite, is unsympathetic to the character of the area and the Fosterstown Environs, would be contrary to the aforementioned policy documents and would therefore be contrary to the proper planning and sustainable development of the area.*

12.12.6. I have considered the issue of layout and permeability in sections 12.2, 12.3 and 12.6 above, including the location of the car parking areas. I have considered the issue of scale, design and massing in Section 12.3 above and I have recommended that the height of Block A be reduced, and that an element of Block B be omitted from the scheme, thereby reducing the overall scale and massing of the scheme, with the result that the proposal is more appropriate for the context of the site. I have considered the issue of character areas in section 12.3 above.

12.12.7. Recommended Reason for Refusal 3 states the following

*The open space serving the proposed development, by virtue of the deficiency in usable spaces provided, the temporary nature of the unprotected public open space bounded by the proposed Fosterstown Access Road/Spine Road and the absence of sufficient play space to serve the community in the proposed development, is contrary to the quantitative and qualitative standards for open space set out in the Fingal Development Plan 2017-2023 (Table 12.5 Open Space Hierarchy and Accessibility), would fail to provide a satisfactory level of amenity for residents of the proposed development and would, therefore, be contrary to the proper planning and sustainable development of the area.*

12.12.8. I have considered the issue of development standards, including open space provision, in the relevant section above, and I have concluded that the overall quantum of same is appropriate and that the proposed scheme will provide a high standard of residential accommodation.

12.12.9. Recommended Reason for Refusal 4 states the following

*The layout of the proposed development, with 5 and 6 storey apartment blocks, situated approximately 20m from the boundary wall of No.1 Hawthorn Park, would result in significant overlooking of the private amenity space of this and other nearby dwellings which would significantly adversely affect the residential amenity of these properties and would be contrary to the proper planning and sustainable development of the area*

12.12.10. I have considered the issues of residential amenity in the relevant sections above and the matters raised within the reason for refusal above have been assessed. While I have sought a reduction in height, I have not done so in order to prevent overlooking, which as I have concluded above, will not be material in this instance.

### 13.0 Conclusion and Recommendation

The proposed residential, retail and crèche uses acceptable in principle at this site with regard to the relevant RA zoning objective of the Fingal County Development Plan 2017-2023. The provision of a higher density residential development at this location is desirable having regard to its location within the Dublin Metropolitan Area, its proximity to existing and proposed public transport services, including the proposed BusConnects Bus Corridor and the Metrolink, and having regard to the proposed high quality pedestrian and cycle infrastructure facilities. In addition, the site is located in an area with a wide range of social infrastructure facilities. Subject to a condition reducing the height of Block A, and reducing the overall massing of Block B, the height, bulk and massing, detailed design and layout of the scheme are acceptable. I am also satisfied that the development would not have any significant adverse impacts on the amenities of the surrounding area. The future occupiers of the scheme will also benefit from a high standard of internal amenity and the proposal will contribute significantly to the public realm. The overall provision of car



parking and cycle parking is considered acceptable. I am satisfied the future occupiers of the scheme will not be at risk from flooding, and the proposal will not increase the risk of flooding elsewhere.

Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be GRANTED for the proposed development, subject to conditions, for the reasons and considerations set out below.

## 14.0 Recommended Order

### Planning and Development Acts 2000 to 2019

#### Planning Authority: Fingal County Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 8<sup>th</sup> Day of October by MKN Property Group care of John Spain Associates, 39 Fitzwilliam Place Dublin 2 D02 ND61.

#### Proposed Development:

Construction of a mixed-use development ranging in height from 5 no. storeys to 9 no. storeys from street level.

The development will have a total of 278 no. apartment units (125 no. 1 bedroom units, 146 no. 2 bedroom units and 7 no. 3 bedroom units) internal amenity space (218.8 sqm), 1 no. creche facility (354.4 sqm) and 1 no. retail unit (262 sqm);

The proposed development is set out in 3 no. Blocks. Each block will contain the following:

- Block A – ranges in height between 6-9 storeys and contains 13 no. 1 bedroom units, 45 no. 2 bedroom units and 7 no. 3 bedroom units and internal amenity space, a retail unit and a creche facility at ground floor level;
- Block B – ranges in height between 5-6 storeys (over basement level) containing 56 no. 1 bedroom units and 48 no. 2 bedroom units.

- Block C – ranges in height between 6-7 storeys (over basement level) in height containing 56 no. 1 bedroom units and 53 no. 2 bedroom units;

The proposed development will also include the provision of public, communal and private open space including courtyard areas, terraces, balconies and playground areas;

A section of the proposed public open space consists of temporary open space which will be developed on in future phases;

Public realm improvements including the provision of footpaths, road widening, cycle infrastructure and landscaping works to the Forest Road;

Provision of a new link road from the Forest Road to provide access to the proposed development and adjoining lands. The new link road will also include a pedestrian and cycle route to the Dublin Road/ R132;

Parking at basement level for 104 no. cars and at surface level for 102 cars to serve the residential element of the proposed development.

5 no. car parking spaces will be provided at surface level to serve the creche;

214 no. bicycle parking spaces will be provided at basement level and 162 no. external spaces at ground level throughout the site;

All hard and soft landscaping, boundary treatments and all associated site development works, signage, services, substations, green roofs, PV panels at roof level and plant.

### **Decision**

**Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

### **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

### **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- (a) the location of the site in an established urban area, in an area zoned for residential;
- (b) the policies and objectives of the Fingal County Development Plan 2017-2023;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) the National Planning Framework which identifies the importance of compact growth;
- (d) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020;
- (g) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009;
- (i) Architectural Heritage Protection- Guidelines for Planning Authorities 2011;
- (j) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (k) The pattern of existing and permitted development in the area;
- (l) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan or a Local Area Plan;
- (m) The submissions and observations received;



- (n) The Chief Executive Report from the Planning Authority; and
- (o) The report of the inspector.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment screening of the proposed development and considered that the EIA Screening Statement submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development on an urban site served by public infrastructure,
  - (b) the absence of any significant environmental sensitivities in the area, and
  - (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),
- the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

### **Conclusions on Proper Planning and Sustainable Development:**

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene Objective SWORDS 27 of the Fingal Development Plan 2017-2023, as relates to building heights in the Fosterstown Masterplan Area, and could materially contravene Objective DM113 of the Fingal Development Plan 2017-2023, as relates to car parking standards for new developments. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the South Dublin County Development Plan 2016-2022 would be justified for the following reasons and considerations.

In relation to section 37(2)(b) (i) of the Planning and Development Act 2000 (as amended):

The current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature. National policy as expressed within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 fully support the need for urban infill residential development, such as that proposed on this site.

In relation to section 37(2)(b) (iii) of the Planning and Development Act 2000 (as amended):

- 14.1.1. The Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031, seeks to increase densities on appropriate sites within Dublin City and Suburbs. In relation to Section 28 Guidelines of particular relevance are the Urban Development and Building Height Guidelines (2018) which state that *inter alia* that building heights must be generally increased in appropriate urban locations, subject

to the criteria as set out in Section 3.2 of the Guidelines. The proposal has been assessed against the criteria therein. The Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), support increased densities in appropriate locations and the proposal has been assessed in relation to same. The proposal has also been assessed against the relevant criteria in the associated Urban Design Manual. In relation to car parking, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018, seek to reduce car parking standards in central /accessible urban locations sites and it is the Board's view that the quantum of parking proposed by the application is in line with these Section 28 Guidelines.

## 15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be five years from the date of this Order.

**Reason:** In the interests of proper planning and sustainable development.

3. The proposed development shall be amended as follows:

- (a) The height of Block A shall be reduced to a maximum of 8 storeys. In regard, Units A-8.1, A-8.2 and A.8.3 shall be omitted from the scheme.
- (b) Block B shall be amended to form two distinct blocks. In this regard, Units B-1.9, B-1.10, B-2.10, B-2.11, B-3.10, B-3.11, B-4.10, B-4.11, B-5.10 and B5-11 shall be omitted from the scheme.



Amended plans detailing the above amendments shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** In the interest of urban design and in the interests of visual amenity.

4. Prior to the commencement of development, a revised/annotated site layout plan detailing those features as referenced in Section 3.1 'Design Parameters' of the DMURS Compliance Statement shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

5. Prior to the commencement of development, detailed drawings shall of the proposed pedestrian/cycle route from the termination of the proposed Link Road to the R132 shall be submitted to, and approved in writing by, the Planning Authority. This route shall be designed in accordance to take account of the BusConnects proposals along the R132.

**Reason:** In the interest of proper planning and development.

6. The developer shall comply with all requirements of the planning authority in relation to roads, access, cycling infrastructure and parking arrangements. In particular:

(a) The roads and footpaths shall be constructed in accordance with the Council's standards for taking in charge.

(b) The north-south spine road running from the new Fosterstown Link Road to the southern boundary of the proposed development shall facilitate the provision of a future road access to the lands south of the proposed development that form part of the Masterplan lands. In this regard the proposed boundary treatment should not bias the delivery of this future access road.

(c) The applicant shall submit a schedule of Road Safety Audits to be carried out as part of the proposed development at the relevant stages as outlined in the current edition of Transportation Infrastructure Ireland guidelines GE-STY-1027.

(d) The southern cycle lane on the proposed Link Road shall be provided as a off-road facility in line with best practice of the National Cycle Manual.

(e) Each apartment unit shall be assigned separate secure bicycle compartments (serving 2 no. bicycles) at basement level. Each compartment shall have separate secure access gates.

(f) The design of the basement car park shall comply with the current edition of 'Design Recommendations for Multi-Storey and Underground Car-Parks' published by the Institution of Structural Engineers

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity

7. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

8. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

9. Proposals for the development name and dwelling numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and dwelling numbers, shall be provided in accordance with the agreed

scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

10. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

11. The areas of public open space and communal open spaces, as shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

12. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces 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 dwelling.



Reason: In the interests of amenity and public safety.

13. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a satisfactory standard of development.

14. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

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

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

16. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

17. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

18. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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

19. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

**Reason:** To protect the residential amenities of property in the vicinity.

20. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

21. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

22. The following requirements shall be adhered to:

- (a) The recommendations as set out in Section 4, 5 and 6 of the 'Inward Noise Impact Assessment' shall be implemented in full.
- (b) The applicant shall engage with Dublin Airport Authority (daa) to ensure that any crane operations do not impact on flight procedures and air safety. The applicant shall also contact the Irish Aviation Authority and daa of intention to commence crane operations with a minimum of 30 days notification of their erection.

**Reason:** In the interest of residential amenity and aircraft safety.

23. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

24. All items and areas for taking in charge shall be undertaken to a taking in charge standard. Prior to development the applicant shall submit construction details of all items to be taken in charge. No development shall take place until these items have been agreed.

**Reason:** To comply with the Councils taking in charge standards.

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



referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

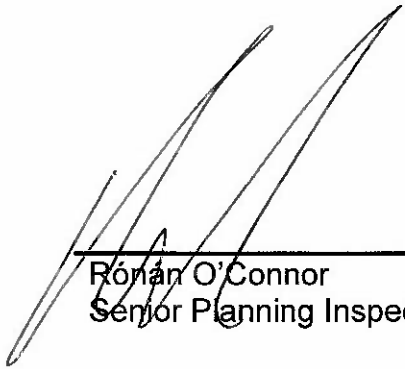
26. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

27. 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 for Dublin City Council of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.



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Ronan O'Connor  
Senior Planning Inspector

21<sup>st</sup> January 2021

DECISION QUASHED