



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309206-21

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<b>Development</b>	Mixed Development to include 79 residential apartments and childcare facilities.
<b>Location</b>	Allendale, Clonsilla Road, Clonsilla, Dublin 15
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	FW20A/0180
<b>Applicants</b>	Kingscroft Developments Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	Kingscroft Developments Ltd
<b>Date of Site Inspection</b>	23 <sup>rd</sup> March 2021
<b>Inspector</b>	Dolores McCague

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## 1.0 Site Location and Description

- 1.1.1. The site is located in the townland of Clonsilla in an area known as Allendale, to the west of Blanchardstown. Ongar village is c.800 metres to the north-west and Clonsilla train station is c. 800 metres to the south. Clonsilla Road runs in a north south orientation along the western boundary as far as Allendale roundabout, near the north west corner of the site. This is a five arm junction with Ongar Rd (a distributor road running east and west) forming two arms, a residential road The Avenue to the south west, Phibblestown Road forming the northern arm and Clonsilla Road the southern arm.
- 1.1.2. Ongar road is close to the north of the subject site from which it is separated by historic buildings and an apartment development. Allendale House, a protected structure, to the north shares an entrance with the subject site. A line of mature trees separates the subject site from Allendale House. Two dwellings, conversions of outbuildings, formerly associated with Allendale House, adjoin the site to the north-west, with separate access from Clonsilla road. Allendale Square, a scheme of apartments and houses, bounds the site to the east and south and is accessed to the south from Clonsilla Road (also referred to as Hansfield Road). To the west of the Allendale roundabout there is residential development comprising a mix of housing and 5 storey apartment blocks, part of the Hansfield SDZ.
- 1.1.3. The site forms part of the grounds of Allendale/Allendale House. The site boundaries with Clonsilla Road and Allendale Square follow straight lines; the eastern half of the northern boundary is similarly a straight line, the remainder of the boundary is irregular where the site boundary forms three sides of the remaining Allendale House property and the southern side of the other historic buildings. The site is disused and has some mature trees including those forming a portion of avenue to the house. Hedgerows define several boundaries including to Clonsilla Road. The current entrance gates of metal frames and plywood, and have replaced the historic entrance gates.
- 1.1.4. The site is given as 1.65 hectares,

## 2.0 Proposed Development

2.1.1. Planning Permission is sought for the construction of a mixed-use development totalling 9,468.4 sqm Gross Floor Space arranged over 14 No. buildings (ranging from two to three storeys), comprising 79 No. residential units (9,032 sqm) and a childcare facility (196 sqm), ancillary structures (Bin Storage and Bike Storage totalling 240.4 sqm), partially within the curtilage of Allendale House and entrance Gates (Protected Structure No. 0704 of the Fingal Development Plan 2017 - 2023).

2.1.2. The proposed development consists of:

32 No. three bedroom duplex residential units over 32 No. two bedroom duplex apartment units arranged over 7 No. three storey buildings (Block A to Block G); 3 no. three bedroom terrace residential units of two storeys; 10 no. three bedroom semi-detached residential units of two storeys; and 2 no. three bedroom duplex residential units over a ground floor childcare facility arranged in a three storey building (Block H).

160 no. car parking spaces are arranged throughout the proposed development comprising 142 no. residential car parking spaces (2 no. per three bedroom semi-detached residential units, 2 no. per three bedroom terrace residential unit, 2 no. per three bedroom duplex residential unit and 1.5 per two-- bedroom ground floor duplex apartment units), 16 no. visitor car parking spaces (including 4 no. electric vehicle (EV) charging spaces), 2 No. childcare facility car parking spaces; 210 no. bicycle parking spaces are arranged throughout the development (13 no. bicycle storage units totalling 137.6 sqm);

Boundary treatments, private and public open spaces, hard and soft landscaping (including children's playground area totalling 317 sqm), roads and pedestrian walkways, services (incl. surface water attenuation storage), site and street lighting, solar panel arrays, bin storage (33 No. bin storage units totalling 102.8 sqm) and all other ancillary and associated site development works above and below ground level. Primary vehicular and pedestrian access will be via the existing access off Clonsilla Road, upgraded and enhanced as part of the proposed development.

The application is accompanied by:

Architectural Heritage Impact Assessment

A report 'Proposed New Residential Housing Development' from the designers,  
Preliminary Waste, Construction and Environmental Management Plan,  
Public Street Lighting Impact Assessment Report,  
Planning Report,  
Engineering Services Report, and  
An Arboricultural Assessment of the Tree Vegetation within the site.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. On 14 Dec 2020, a decision refuse permission was made by Fingal County Council for 5 reasons:

1 The development, located adjacent to and partially within the curtilage of a protected structure, would result in unacceptable negative impact on the special architectural, historical, cultural and social interest of the protected structure. The proposed development if permitted would therefore contravene materially Objective CH20, of the Fingal Development Plan 2017-2023, would set a poor precedent for other similar development and would be contrary to the proper planning and development of the area.

2 By virtue of its design the development is considered to be visually intrusive, and physically imposing on the adjoining road to the west. The proposed development if permitted would be contrary to Objectives PM31 and PM33 of the Fingal Development Plan 2017-2023, would set an undesirable future precedent and would therefore be contrary to the proper planning and sustainable development of the area.

3 The proposed design and layout of the scheme which provides for extensive areas of surface car parking, uniformity of design, lack of distinct character areas within the development and lack of permeability to adjoining areas would result in a substandard form of development which would be injurious to the visual and residential amenities of the scheme, would materially contravene the RS zoning objective for the site which seeks to 'provide for residential development and protect

and improve residential amenity', and would be contrary to the proper planning and sustainable development of the area.

4 The proposal would seriously compromise the retention of significant trees and hedgerows on site. The proposed development would be contrary to Objectives PM64 and DMS77 of the Fingal Development Plan 2017-2023 and as such would be contrary to the proper planning and development of the area.

5 The proposed development would provide an unacceptable quantum and quality of open space and playground facilities for future residents which would be seriously injurious to the residential amenities of the scheme. The proposed development would materially contravene the RS zoning objective for the site which seeks to 'provide for residential development and protect and improve residential amenity', would contravene Objectives DMS57, DMS74 and DMS75 of the Fingal Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.

3.1.2. The decision was in accordance with the planning recommendation.

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

The planning report recommending refusal includes:

The function and role of the protected structure is considered critical in the protection/development of/ enhancement of character in this area.

The building heights are considered acceptable in principle, however greater level of acknowledgement of and sensitivity to the protected structure and residential development to the west of Hansfield Road would benefit the integration of the proposal.

It is considered that little consideration has been given to the sensitivity of the site and how the protected structure fits into the overall scheme; the design of the 3 storey blocks and the placement of same within the site and the extent of the buffer area of open space around the protected structure of Allandale. A considerable revision of the scheme would be required to be deemed acceptable and to protect the character and sensitive location of the protected structure on site.

The proposal is to remove the entire western and the remnant of the townland boundary to the eastern side of the northern boundary. In addition the proposal includes the removal of trees of acknowledged value, as described in the submitted report of the arborist, in order to accommodate a higher number of units.

Layout and design – the applicant has redesigned the proposal following the previous refusal (FW19A/0085). The development has been reduced to 2-3 storey buildings in 8 blocks and additional housing. A total of 79 units are proposed with a childcare facility. There remain concerns regarding the proposed development and its sensitive location. The open space is considered to represent incidental open space. The OS in area 3 is considered incidental to the side of Block G and the OS to area 4 has an underground attenuation tank located beneath it, which is unacceptable. The OS in area 3 is considered communal / semi-private due to its location to the rear of apartment block D, and not for general use to the other residents.

The frontage onto local primary road L-3015-0 (Clonsilla Road) is considered to be unacceptable for reasons of the lack of justification for the removal of the existing hedgerow and the siting and design of the proposed blocks, particularly Blocks A and B.

The range of unit types is positive; the design, fenestration and finish lacks authenticity and diversity; the uniform brick cladding and roof designs, particularly of the housing, should be addressed. The applicant needs to address these concerns and revisit the design and break up of the mass of blocks, creating more interesting elevations and use of higher quality materials.

All apartments are dual aspect. 13 houses are proposed of which 10 are semi-detached. The design could be improved with the altering of the proposed roof types and removal of metal rail to first floor windows.

The proposed layout would be dominated by vehicle parking and does not prioritise pedestrians in the space. Parking for house units is generally provided within curtilage; for duplexes it is provided at street level. Consideration should be given to alternatives such as basement or semi-basement, under-croft and podium options.

Blocks A, B and C are not acceptable in this location along the local road. Set-backs buffers etc, need to be an integral part of the design, acknowledging and respecting

the adjacent residential development to the west of Hansfield Road and the protected structure.

Bicycle and bin stores – what goes where needs to be clarified.

The proposal fails to make any contribution to increased permeability or enhanced pedestrian or cycle facilities on the local road. No details of the works required to Hansfield Road have been provided; including providing a 6m wide kerbed carriageway and upgraded drainage and public lighting. No pedestrian connectivity to adjacent developments is shown.

Open space is: short in quantitative and qualitative terms, incidental, includes communal areas, environmental areas, narrow spaces, car parking and SUDS features. The playground should be sited so that it is both easily accessible and overlooked by dwellings, while not causing a nuisance to residents nearby.

It is unclear what trees are to be retained. 'To be retained where possible' is used. No details are provided of proposed tree pits.

No bat survey was carried out.

Taking in charge – proposals are unacceptable. A clear definition between communal/private open space and public open space is required. Proposals are not in accordance with road standards.

Childcare provision of 196 sq m is proposed at ground floor of block H; regarding which issues are raised by Transportation.

Transportation issues – sightlines can be achieved by removal and set-back of the existing boundary; and other issues per Transportation Planning Section report.

### 3.2.2. Other Technical Reports

### 3.2.3. Transportation Planning Section:

The proposed development is in a 50km/hr speed limit;  
Hansfield Road is traffic calmed.

Sightlines can be achieved by removal and set-back of the existing boundary.

Parking provision acceptable: 160 spaces. The reduction to 1 space per 2 bed could be acceptable in the context of providing adequate set-down for the creche. A



minimum of 10% of spaces should have EV charging points and all remaining spaces should have ducting and services available for future retro-fitting.

Bicycle parking 210 spaces in 13 separate storage units; quantum acceptable. Parking for each unit is not provided in a separate secure compartment or within the building footprint. Some cycle parking areas have poor passive surveillance.

Internal roads are 5.5m in width; perpendicular parking requires a road width of 6m, (Fig 4.82 of DMURS).

The proposed layout would be dominated by vehicle parking and does not prioritise pedestrians in the space. Parking for house units is generally provided within curtilage; for duplexes it is provided at street level. Consideration should be given to alternatives such as basement or semi-basement, under-croft and podium options.

The creche requires a set-down area. The entrance should minimise the crossover of the public footpath; raised crossing; details to be provided.

A transport assessment has not been provided – as a minimum it should be assessed against background traffic on Hansfield Road.

Taking in charge – proposals are unacceptable; it shows that parking areas would not be taken in charge. This gives rise to maintenance problems. If these spaces are to be taken in charge they would be communal public spaces. All finishes to comply to standards to facilitate future unplanned plebiscites, alternatively a suitable condition excluding these areas from being taken in charge, that can legally preclude a future plebiscite, should be included.

Hansfield Road from Clonsilla Station has a 6m wide kerbed carriageway, parking bays, footpath and cycle path links. The applicant has not provided any details of the works required to the Hansfield Road to accommodate the development including providing a 6m wide kerbed carriageway and upgraded drainage and public lighting over the boundary of the development. A cross-section should be provided.

The Cycle Network Plan for the Greater Dublin Area indicates the Clonsilla road as part of the networks secondary routes and minor green way routes. A footpath and verge are indicated as part of the proposed development. It is not clear from the drawing what set-back would be required, in order not to prejudice any future cycle and pedestrian facilities, to current NTA Cycle Manual standards.

The swept path analysis provided for the bin trucks and emergency vehicles indicates areas where the vehicles either overrun parking spaces or footpaths. The potential for conflict or obstruction should be designed out.

A final CMP and CTMP to be provided.

Further information required.

#### 3.2.4. Parks and Green Infrastructure

The open space is not acceptable as public open space. It is considered to represent incidental/communal open space. The proposal gives rise to a requirement of 3900m<sup>2</sup> based on occupancy rates of 208.5 bed spaces. Clarification required re. provision and financial contribution for shortfall.

The OS in area 1 is considered incidental with parking adjoining.

The OS in area 2 is considered incidental squeezed into the space between a road and block E with parking adjoining. There is no kick about area. In general the positioning of car parking in this manner is not recommended as it reduces the views / passive supervision and in particular it blocks the views of drivers if / when children run out to the road from the open space, after a ball etc.

The OS in area 3 (485 m<sup>2</sup>) is considered incidental to the side of Block G, more of a through way for pedestrians.

The OS to area 4 (310m<sup>2</sup>) has an underground attenuation tank located beneath it, which is unacceptable; objective DMS74.

The OS in area 5 is considered communal / semi-private due to its location to the rear of apartment block D, and not for general use to the other residents.

The landscape plan in its current layout is unacceptable.

Tree pit specifications have not been provided, 16 cubic metres minimum required.

No bat survey.

Further information required is listed.

#### 3.2.5. Conservation Officer

Allandale (RPS 704) is mid 19<sup>th</sup> Century detached, single-storey over basement house. Its historic setting had the house approached along a tree lined avenue with

the house set in the NW corner so that the front of the house looked out over the majority of the lands.

There is the opportunity to utilise the historic building and planted perimeter to create a unique and attractive scheme that avails of the historic elements to create a special character to the place. Instead the scheme positions the taller buildings along the western part of the site which is the entrance. This provides no marker or indication that there is any structure of significance within the core of the development.

It appears that little consideration or sensitivity has been given to how the protected structure fits into the overall scheme;

The scale is acceptable in principle, but the design of the 3 storey blocks and the placement of these within the site, the extent of the buffer area of open space around the protected structure of Allandale, and the creation of a hard, built edge along the Clonsilla Road boundary, are of concern. A considerable revision of the scheme would be required to be acceptable.

There should be a larger planted buffer area. The position of Block E needs to be relocated.

The area in front of Allandale House should be the focus of the open space (central to the design of F06A/0706) and this could serve the dual purpose as the enlarged buffer area.

Soft planted character should be retained along the western boundary along Clonsilla road: Blocks A, B and C need alteration. Re. Blocks A and B there are significant reservations as the north west corner is a sensitive location adjoining the house and its former outbuildings and has a concentration of trees/planting within this quadrant. Development needs to be sympathetic in scale, position, design, parking provision and landscaping. It should also retain a planted boundary to the north, between it and the former outbuildings.

The eastern portion of the lands are less sensitive from an architectural heritage perspective and could take taller elements, but currently 2 storey housing is being placed along the eastern perimeter. The south boundary and SW corner could also accommodate taller elements. The design of the vehicular entrance from Clonsilla Road should seek to reflect that it is the entry point to a scheme that has a historic

building at its centre. The retention / re-instatement of the planted boundary would aid in achieving this.

The quality of the design of the buildings within a scheme has an important influence on the acceptability of impacts of new build and higher scales in proximity to a protected structure. The design approach taken is questionable: 3-storey block buildings with uniform brick finish, concrete hipped roofs, PVC windows and doors and rainwater goods. More could be done to break up the mass of the blocks, to create more interest on the elevations and to use higher quality materials.

#### 3.2.6. Community Archaeologist

An examination of the historic maps indicate the primary usage of the proposed development site from the early nineteenth century was as agricultural land. The nearest recorded archaeological site is over 600m to the south-east and archaeological investigations preceding the nearby Hansfield development did not identify any features or artefacts. Due to the lack of indications of archaeological potential there are no objections to this proposal on archaeological grounds.

#### 3.2.7. Water Services Department

The applicant proposes a single surface water outfall to an existing 300mm surface water sewer on Clonsilla Road. The following SUDS measures are incorporated; permeable paving with storage; bio retention areas; and underground attenuation along with flow control devices and petrol interceptors. Whilst the use of underground attenuation should be avoided, the applicant has reduced considerably the run-off with the introduction of other SuDS systems.

1. All works with regards to the surface water outfall shall be agreed and coordinated with the Local Authority including the necessary legal consent to connect in this sewer may be required.

2. No surface water / rainwater is to discharge into the foul water system under any circumstances.

3. The surface water drainage must be in compliance with the "Greater Dublin Regional Code of Practice for Drainage Works, Version 6.0, FCC, April 2006.

Flood risk: no objection. A commensurate flood risk assessment has been prepared by OCSC Consulting, on behalf of the applicant, and is acceptable.

### 3.3. Prescribed Bodies

#### 3.3.1. Dept. of Tourism, Culture, Arts, Gaeltacht, Sport & Media

It is noted that the proposed development is large in scale. Given the scale, extent and location of the proposed development it is possible that subsurface archaeological remains could be encountered during the construction phases that involve ground disturbance. It is recommended that Archaeological Monitoring, as described below, be carried out at this site and included as a condition in any grant of planning permission that may issue.

Archaeological Monitoring shall consist of the following:

1. The applicant is required to engage the services of a suitably qualified archaeologist to monitor all topsoil stripping associated with the development.
2. Should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the National Monuments Service (NMS) with regard to any necessary mitigating action (e.g. preservation in situ, and/or excavation). The applicant shall facilitate the archaeologist in recording any material found.
3. The Planning Authority and the NMS shall be furnished with a report describing the results of the monitoring.

#### 3.3.2. Irish Water

The applicant shall sign a connection agreement with Irish Water prior to the commencement of the development and adhere to the standards and conditions set out in that agreement. All development shall be carried out in compliance with Irish Water Standards Codes and Practices. Reason: To ensure proper planning & sustainable development.

### 3.4. Third Party Observations

#### 3.4.1. Third party observations on the file have been read and noted. Concerns raised include:

Impact on light to adjoining property,

Insufficient information re. light, transport and ecology,

Impact on protected structure,  
Impact on privacy and amenity of adjoining property, and  
Noise impact.

#### 4.0 **Planning History**

FW19A/0085 permission refused for 11 four bedroom terrace residential units, 9 three bedroom terrace units and 1 two bedroom terrace, arranged over 6 buildings (Block A: buildings 1 to 6), 26 three bedroom duplex units over 24 ground floor two bed apartments and 2 ground floor one bed apartments arranged over 3 buildings (Block B, Block D and Block E); 9 one bed apartment, 3 two bed apartments and 8 three bed apartments arranged over 1 building (Block C); 137 car parking spaces, and 203 bicycle parking spaces.

Refused for 4 reasons: unacceptable in the context of its impact on protected structure and material contravention of objective CH20; imposing design; would compromise the retention of significant trees and hedgerows; deficient in bin storage, open space, playground and childcare facilities.

F06A/0706 permission granted for alterations to previously approved development (for construction of 109 apartments, extension of duration to Jan 2012 refused, as the apartment design was not compliant with the prevailing policies.

F05A/1609 permission refused for 118 dwellings in 7 blocks with a part basement, for 4 reasons: material contravention of open space standards; proposal for poor open space areas; excessive density; detrimental to setting of Allandale House.

F05A/1608 permission granted for alterations to the residential development permitted under F04A/0026.

F04A/0026 permission granted for 104 dwellings in 6 blocks of apartment/duplex units.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. Fingal Development Plan 2017 – 2023 is the operative plan. Relevant provisions include:

Zoning Objective “RS” residential provide for residential development and protect and improve residential amenity.

Vision: Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.

Parking Control - The Development Plans for each of the four Dublin Local Authorities currently include standards which limit the amount of car parking at new developments, especially places of work and education. Employment-based developments that are close to public transport need fewer car parking spaces. Consequently, the car parking standards are split into Zone 1 which allows fewer car parking spaces and Zone 2 which allows a higher number of car parking spaces.

Zone 1 applies to areas which are:

- within 1600m of DART, Metro, Luas or BRT, (existing or proposed),
- within 800m of a Quality Bus Corridor,
- zoned MC Major Town Centre,
- subject to a Section 49 Scheme.

(Table 12.8 Car Parking Standards does not distinguish between zones 1 and 2 for residential development.)

#### Objectives

CH20 - Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, is compatible with the special character, and is appropriate in terms of the proposed scale, mass, height, density, layout, materials, impact on architectural or historic features, and junction with the existing Protected Structure.

CH21 - Seek that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected

Structure and any complex of adjoining buildings, designed landscape features, or designed views or vistas from or to the structure is conserved.

PM31 - Promote excellent urban design responses to achieve high quality, sustainable urban and natural environments, which are attractive to residents, workers and visitors and are in accordance with the 12 urban design principles set out in the Urban Design Manual – A Best Practice Guide (2009).,

PM33 - Enhance and develop the fabric of existing and developing rural and urban centres in accordance with the principles of good urban design, including the promotion of high quality well-designed visually attractive main entries into our towns and villages.

PM64 - Protect, preserve and ensure the effective management of trees and groups of trees.

PM76 - Require as part of planning applications for new residential and commercial developments that provision be made for appropriate purpose built childcare facilities where such facilities are deemed necessary by the Planning Authority.

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

DMS57- Require 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.

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

DMS74 - Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution.

DMS75 - Provide appropriately scaled children's playground facilities within residential development. Playground facilities shall be provided at a rate of 4 sq m per residential unit. All residential schemes in excess of 50 units shall incorporate



playground facilities clearly delineated on the planning application drawings and demarcated and built, where feasible and appropriate, in advance of the sale of any units.

DMS30 - Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.

DMS77 - Protect, preserve and ensure the effective management of trees and groups of trees.

PM76 - Require as part of planning applications for new residential and commercial developments that provision be made for appropriate purpose built childcare facilities where such facilities are deemed necessary by the Planning Authority.

## 5.2. Sustainable Urban Housing:

Design Standards for New Apartments Guidelines for Planning Authorities  
Department of the Environment, Community and Local Government, December 2015

- 5.2.1. Guidelines to uphold proper standards for apartment design to meet the accommodation needs of a variety of household types and sizes, and to ensure that, through the application of a nationally consistent approach, new apartment developments will be affordable to construct and that supply will be forthcoming to meet the housing needs of citizens. The guidelines include:

As a benchmark guideline for apartments, one car parking space per unit should generally be required. However, car parking provision should be reduced or avoided in very accessible areas such as central business districts and a confluence of public transport systems, or should be increased within an overall maximum parameter in a more suburban context.

Car parking requirements for apartment schemes should generally be expressed as maximum car parking standards and should exceed 1 space per apartment only in more suburban contexts, to a maximum of 1.5 spaces per apartment dwelling.

Bicycle Parking - As a benchmark guideline for apartments, an absolute minimum of one secure, covered bicycle parking space per unit should be required. This must be increased in more urban contexts and inner urban areas to be in line with National Cycle Manual (NTA, 2011) requirements. The design of apartment schemes should ensure that bicycle parking spaces are located to be conveniently accessible to residents, both in terms of proximity to access points i.e. stair/lift cores to apartments and routes to the external road/street network. Care should be taken to avoid conflict with car parking provision, with particular regard to access routes and obstructions such as ramps, pillars or acute turns, if provided underground. Where it is sought to reduce car parking provision in apartment schemes, in demonstrating that other non-car based modes of transport can meet the needs of residents, whether in full or in part, additional secure, covered cycle parking provision will be necessary.

### **5.3. Regulation of Commercial Institutional Investment in Housing,**

Guidelines for Planning Authorities Department of the Environment, Community and Local Government, May 2021

- 5.3.1. Guidelines to ensure that new 'own-door' houses and duplex units in housing developments are not bulk-purchased by commercial institutional investors in a manner that causes the displacement of individual purchasers and/or social and affordable housing including cost-rental housing.

Should the Board be minded to grant planning permission the following condition should be attached:

(a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for

the occupation of social and/or affordable housing, including cost rental housing.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

#### 5.4. Natural Heritage Designations

5.4.1. The nearest Natura sites are: Rye Water Valley/Cartron SAC (site code 001398), c4.5km straight line distance from the subject site, designated for:

Petrifying springs with tufa formation,

Narrow-mouthed Whorl Snail, and

Desmoulin's Whorl Snail, not hydrologically connected, and

South Dublin Bay and River Tolka Estuary SPA (site code 004024), c15km straight line distance and further downstream from the subject site, designated for:

Light-bellied Brent Goose

Oystercatcher

Ringed Plover  
Grey Plover  
Knot  
Sanderling  
Dunlin  
Bar-tailed Godwit  
Redshank  
Black-headed Gull  
Roseate Tern  
Common Tern  
Arctic Tern  
Wetland and Waterbirds

#### **5.5. Preliminary Examination Screening for Environmental Impact Assessment**

- 5.5.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 5.5.2. 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.)
- 5.5.3. It is proposed to construct a mixed-use development totalling 9,468.4 sqm Gross Floor Space arranged over 14 No. buildings (ranging from two to three storeys), comprising 79 No. residential units (9,032 sqm) and a childcare facility (196 sqm), ancillary structures (Bin Storage and Bike Storage totalling 240.4 sqm), partially within the curtilage of Allendale House and entrance Gates (Protected Structure No. 0704 of the Fingal Development Plan 2017 - 2023). The number of dwellings

proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 1.65 hectares and is located within an existing built up area but not in a business district. The site area is therefore well below the applicable threshold of 10 ha. The site is to the south-east of the Allendale roundabout, with Hansfield SDZ to the west, Ongar village c.800 metres to the north-west and Clonsilla train station c.800 metres to the south. The introduction of a mixed-use development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Fingal County Council, upon which its effects would be marginal.

5.5.4. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for RS” residential provide for residential development and protect and improve residential amenity under the provisions of the Fingal Development Plan 2017 – 2023, and the results of the strategic environmental assessment of the Fingal Development Plan 2017 – 2023, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and

- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have 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 and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The first party appeal against the refusal was submitted by The Planning Partnership on behalf of Kingscroft Developments Ltd. The grounds includes:

- It would not materially contravene the zoning objective.
  - They note that under section 37 of the Planning and Development Act 2000-2020 the Board is only permitted to grant planning permission in exceptional circumstances where:
    - the proposal is of strategic or national importance,
    - there are conflicting objectives in the development plan,
    - the proposal is in keeping with regional planning guidelines other guidelines and policy directives, and
    - a precedent has been set by similar developments in the area since the making of the development plan.
  - The proposed development cannot materially contravene the Fingal Development Plan 2017-2023 where there are significant plan policies and objectives as well as the principle of the zoning and core strategy which can equally if not more stringently, support the proposed development.
- Re. bats, there are no vacant buildings/structures on site. The ecological appraisal of the site confirms that some mature trees featured a layer of ivy especially in SE and NE corners, considered sub-optimal as bat roosts. It was

noted that bat species would likely use the area for foraging. They recommend a condition requiring a bat survey to be undertaken with appropriate mitigation based on survey results.

- Zoning density and surrounding context – the proposed density of 48 units per hectare on infill lands is appropriate and in keeping with National Planning Framework, RSES and other recently published guidelines and policy directives. Hansfield SDZ is on the opposite site of Clonsilla Road. The subject site now forms a pocket of undeveloped lands within an otherwise developing area. A childcare facility is included. Limited provision for parking is provided to promote the utilisation of the extensive network of pedestrian routes and sustainable modes of transport. It complies with the zoning.
- Heritage and visual amenity – the issue of precedent is unlikely to arise. The creation of new views of Allendale House, in conjunction with the activation of the site boundary with Clonsilla Road, will mitigate any impacts on the protected structure which may arise from the removal of the existing hedgerow. A 20m buffer area is maintained and kept free from residential building development. The introduction of additional planting to strengthen and enhance the shared boundary will aid in the preservation of the traditional setting and character of the protected structure. In ABP 237892 the Board decided the integrity of the protected structure would not be injured.
- Landscaping, tree and hedgerow retention and playground facilities – choices must be made as to how best to deliver an appropriate scheme which achieves a balance between developmental considerations and the sensitivities of the receiving environment. Hedgerows and vegetation along all remaining boundaries will be maintained and enhanced. Loss of trees will be mitigated by planting. 1,650 sq m of public open space will be provided – 10% of site area; and an additional 257 sq m of communal open space; total 1907 sq m – 11.56% of site area, not including incidental open space; designed to be adaptable to all uses. There will be a clear definition between public, communal and private spaces. All public areas will benefit from passive surveillance. The open space complies with standards and has been conceived as a green linkage between the

site entrance and the northern site boundary. The proposed development would enhance the character of the area.

- Development Management Guidelines (7.15) is cited. The Board is enabled to make a positive determination as there are potentially conflicting plan policies and objectives which clearly support the proposed development in the development plan and National Planning Policy.
- The material contravention of policies and objectives, including CH20, is contested. CH20 and the zoning would not be materially contravened. Reasons 1, 3 and 5 should be set aside.
- That the site previously benefitted from planning permission for 104 residential units should be considered, as well as the surrounding developed context, the opportunity to facilitate future cycle and pedestrian facilities along Clonsilla Road per the Cycle Network Plan for the Greater Dublin Area, and the current housing shortage.
- Development Plans should be up to date and relevant. The decision is unresponsive to the current housing requirements, the plan is outdated, and the refusal inconsistent with the proper planning and sustainable development of the lands.
- National Policy objectives 33, 35 and 13 are cited; as are the Sustainable Urban Housing Guidelines and the Urban Development and Building Heights Guidelines.
- The proposed development is consistent with Objectives PM31 and PM33
- The built form, which does not exceed 3 storeys, will not impact on Allendale House in terms of scale, height, massing and density. The proposed cladding materials have been carefully chosen regarding the character of the receiving environment. The development is consistent with CH20; and previous ABP 247892 is cited.
- The Urban Design Manual is cited. The proposed development has been conceived to facilitate high quality connectivity, both within its own boundaries and with its immediate surroundings, in terms of pedestrian permeability and walkability.



- The design of the frontage will be accompanied by generously proportioned public footpaths along Clonsilla Road of between 3.5m and 4m. They suggest a condition in relation to areas outside the red line boundary.
- The removal of tree vegetation is to be mitigated by planting. Trees to be removed are identified in the Arboricultural Assessment. Conditions are suggested to address the Parks Dept concerns.

## **6.2. Planning Authority Response**

6.2.1. The planning authority have responded to the grounds of appeal; the response includes:

- The development of the site presents complex challenges in responding to the prevailing character as defined by the protected structure, its setting, the existing surrounding buildings as well as the 2-storey housing to the west of the Hansfield Road.
- The planning authority is of the opinion that there remain significant issues outstanding, associated with the quality of the design and quantity of development proposed for the site and the associated impacts of the proposed design on the residential amenity of future residents and the character of the area including the setting of the protected structure. The proposal would seriously compromise the retention of significant trees and hedgerows on site.
- The submitted design does not sufficiently address the constraints and opportunities presented by this site and would materially contravene the RS zoning and be contrary to a number of objectives of the development plan as they relate to the impact of development on protected structures, retention of trees and hedgerow, provision of open space and urban development.
- The planning authority requests the Board to uphold their decision and further requests provision for a financial contribution if the appeal is successful.

## 7.0 Assessment

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, material contravention, impact on the protected structure, layout and design, open space provision, trees / hedgerows / ecological impact and other issues and the following assessment is dealt with under these headings.

### 7.2. Appropriate Assessment

- 7.2.1. Having regard to the nature and scale of the proposed development, its location in a serviced urban area, and the distance to the nearest downstream European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### 7.3. Material Contravention

- 7.3.1. Material contravention of the development plan is cited in three of the five refusal reasons. Reason 1 cites material contravention of Objective CH20, re. impact on the protected structure; reason 3 cites material contravention of the RS zoning objective for the site which seeks to 'provide for residential development and protect and improve residential amenity' arising from the extensive areas of surface car parking, uniformity of design, lack of distinct character areas within the development and lack of permeability to adjoining areas which would result in a substandard form of development and would be injurious to the visual and residential amenities of the scheme; reason 5 cites material contravention in relation to the unacceptable quantum and quality of open space and playground facilities, in material contravention of the RS zoning objective and in contravention of Objectives DMS57, DMS74 and DMS75.
- 7.3.2. Contravention of the development plan, rather than material contravention, is referred to in reasons 2 and 4. In reason 2 the development is considered to be visually intrusive, and physically imposing on the adjoining road to the west, and contrary to Objectives PM31 and PM33 by virtue of its design. In reason 4 failure to retain significant trees and hedgerows is stated to be contrary to Objectives PM64 and DMS77.

7.3.3. Section 37 of the Planning and Development Act 2000 as amended states at subsection 2:

(a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

(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 spatial and economic strategy 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.

(c) Where the Board grants a permission in accordance with paragraph (b), the Board shall, in addition to the requirements of section 34(10), indicate in its decision the main reasons and considerations for contravening materially the development plan.

7.3.4. In relation to the use of the term 'material contravention' I note for the Board's consideration that each of the issues raised are matters of judgement. The proposal is for residential development in an area zoned for such use and I consider that notwithstanding the use of the term material contravention, the proposed development does not materially contravene the development plan, such that subsection 2 of Section 37 of the Planning and Development Act 2000 as amended, does not apply.

7.3.5. It is open to the Board to determine this appeal without implementing the measures set out in subsection 2 of Section 37 of the Planning and Development Act 2000 as amended.

#### **7.4. Impact on the Protected Structure**

7.4.1. Reason No 1 refers to impact on the protected structure and refers to Objective CH20 of the development plan.

7.4.2. The report of the Conservation Officer lists numerous concerns in relation to site layout, landscaping, building design and use of materials.

7.4.3. It expresses the view that there is the opportunity to utilise the historic building and planted perimeter to create a unique and attractive scheme that avails of the historic elements to create a special character to the place; instead the scheme positions the taller buildings along the western part of the site which is the entrance, in three blocks of 3-storey block buildings with concrete tiled hipped roofs, PVC windows and doors and rainwater goods, this provides no marker or indication that there is any structure of significance within the core of the development.

7.4.4. It refers to the design of the 3 storey blocks and the placement of these within the site, the extent of the buffer area of open space around the protected structure of Allandale, and the creation of a hard, built edge along the Clonsilla Road boundary, being of concern. A soft planted character should be retained along the western boundary along Clonsilla Road; Blocks A, B and C need alteration. The design of the vehicular entrance from Clonsilla Road should seek to reflect that it is the entry point to a scheme that has a historic building at its centre. The retention/re-instatement of the planted boundary would aid in achieving this.

7.4.5. It states that there should be a larger planted buffer area; the position of Block E needs to be relocated; that the area in front of Allandale House should be the focus of the open space (central to the design of F06A/0706) and this could serve the dual purpose as the enlarged buffer area.

7.4.6. It expresses significant reservations re Blocks A and B, as this corner is a sensitive location adjoining the house and its former outbuildings and has a concentration of trees/planting. The development needs to be sympathetic in scale, position, design,

parking provision and landscaping, it should also retain a planted boundary to the north between it and the former outbuildings.

- 7.4.7. The Board should note in relation to a soft planted character versus the creation of a hard, built edge along the Clonsilla Road boundary, that there are conflicting objectives for this road which impact on this boundary. Clonsilla Road is now an urban road where other considerations, including the provision of a cycle way, take priority over the setting of the protected structure. Other impacts of the removal of trees/hedgerows are dealt with later in this report under a separate heading.
- 7.4.8. Retaining the hedgerow and trees along Clonsilla Road as a means of maintaining the setting of Allandale House to suggest that it remains within a rural setting, is questionable, in the context of the competing demands and issues which impact on the development of this site.
- 7.4.9. Regarding the Conservation Officer's concern that the design of the vehicular entrance from Clonsilla Road should seek to reflect that it is the entry point to a scheme that has an historic building at its centre, the possibility of reflecting the historic nature of the property at the entrance, in some manner other than by retaining the boundary hedge and trees, needs to be considered.
- 7.4.10. Regarding the Conservation Officer's significant reservations re, Blocks A and B at the sensitive north west corner adjoining the house and its former outbuildings and where there is a concentration of trees/planting, the layout shows block A squeezed into this corner, with retention only of some hedging, where groups of category C2 trees (Birch) and two category B1 trees, (tag numbers 965 / 966 both Himalayan Birch), are indicated for removal. The retention of trees in this location is achievable by adjusting the layout in this area, such that a planted boundary could be maintained to the north west of Allandale House between the house and the former outbuildings, reducing adverse impact on Allandale House.
- 7.4.11. Regarding the Conservation Officer's suggestion that the area in front of Allandale House should be the focus of the open space to serve the dual purpose as the enlarged buffer area. It appears from the layout submitted that the focus of the open space to the front of Allandale House has already informed the layout design. The issue of open space is addressed under a separate heading later in this report. Further focus of the open space in the area in front of Allandale House could be a

desirable outcome, but only in the context of the provision of functional open space to serve the needs of future residents.

- 7.4.12. In my opinion, subject to some amendments to the layout, the impact on Allandale House is not of such magnitude as to require refusal of the development.

## 7.5. **Layout and Design**

- 7.5.1. The quality of the housing provision is described in the planning officer's report as acceptable. In this regard it should be noted that domestic windows do not face opposing nearby walls in any of the units, that all units are dual aspect, none are deep in plan, the proposed development is low rise; and therefore it can be taken, without the need for measurement (not provided) that all units meet the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents, as required by DMS30. The issue of overshadowing of a nearby dwelling at The Stables, by Block A was raised in observations to the planning authority. Should the Board be minded to grant permission, the need for information to address this issue may need to be considered.
- 7.5.2. The standard of the units is not at issue; however the layout is challenged in a number of respects:
- It is stated that the development would be visually intrusive, and physically imposing on the adjoining road to the west, contrary to Objectives PM31 and PM33; refusal reason 2; and that the proposed design and layout of the scheme providing for extensive areas of surface car parking, uniformity of design, lack of distinct character areas within the development and lack of permeability to adjoining areas would result in a substandard form of development which would be injurious to the visual and residential amenities of the scheme, materially contravening the RS zoning; refusal reason 3.
- 7.5.3. Regarding the lack of permeability to adjoining areas referred to in both the planning report and the transport planning report, the proposed development has a single vehicular entrance to the public road with pedestrian access indicated at two other points along the frontage. It is unclear how the development could connect with the

surrounding areas along other boundaries, since all the other boundaries are shared with developed lands, not in the control of the applicant. The layout indicates open space and car parking areas along the northern boundary which would not preclude connectivity with adjoining development to the north/north-west should the opportunity arise.

- 7.5.4. Uniformity of design and lack of distinct character areas within the development is stated as part of reason 3 for refusing the proposed development.
- 7.5.5. The report of the Conservation Officer questions the approach to the design and the materials used, stating that more could be done to break up the mass of the blocks.
- 7.5.6. In response the grounds of appeal states that the built form, which does not exceed 3 storeys, will not impact on Allendale House in terms of scale, height, massing and density; the proposed cladding materials have been carefully chosen regarding the character of the receiving environment; and the development is consistent with CH20. ABP 247892 is cited.
- 7.5.7. Although the design lacks variety it is not out of step with other residential developments in the vicinity; nor is it of such an extensive scale that distinct character areas are required. I do not accept that the lack variety or the use of materials should be a reason to refuse permission. In my opinion notwithstanding the proximity of the development to the protected structure and the converted outbuildings, the subject development is not required to respond with a more sympathetic design or use of compatible materials and finishes.
- 7.5.8. It is stated in the Transportation Planning Section report that the proposed layout would be dominated by vehicle parking and does not prioritise pedestrians in the space.
- 7.5.9. In this regard the Board is referred to drawing no 40317-206 where the proposed open space context is set, with 'visual open space areas' also identified. These 'visual open space areas' equate to roads and parking areas, and the dominance of roads and car parking in the layout is apparent from this drawing. In most cases the already meagre open spaces areas, are being provided along roads/parking areas which given their already limited areal extent, further limits their utility / recreational value.

- 7.5.10. The Transportation Planning Section report states that the Cycle Network Plan for the Greater Dublin Area indicates the Clonsilla road as part of the network's secondary routes and minor green way routes and that it is not clear from the drawing what set-back would be required in order not to prejudice any future cycle and pedestrian facilities, to current NTA Cycle Manual standards. In stating that the proposal fails to make any contribution to increased permeability or enhanced pedestrian or cycle facilities on the local road; they recommended requesting details of the works required to Hansfield Road including providing a 6m wide kerbed carriageway, upgraded drainage, and public lighting. They have further concerns regarding overrun of parking spaces and footpaths by larger vehicles as part of the roads design and the potential for conflict or obstruction.
- 7.5.11. The 160 surface car parking spaces to serve 79 residential units on this 1.65ha site is achieved by a layout design dominated by roads and vehicle parking areas. The planning report accompanying the application states that Ongar Road to the north and Clonsilla Road to the west will form part of Dublin's Quality Bus Corridor (QBC) network. Mainline rail connectivity is available at Hansfield station 800m to the southwest and Clonsilla station 875m to the southeast. Clonsilla Road is an intended route within the Cycle Network Plan for the Greater Dublin Area. In my opinion the parking provision is in excess of what is required.
- 7.5.12. The Transportation Planning Section report states its satisfaction with the quantum of parking but also states that the proposed layout would be dominated by vehicle parking and does not prioritise pedestrians in the space. It suggests that consideration should be given to alternatives to surface parking such as basement or semi-basement, under-croft and podium options.
- 7.5.13. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines, states that car parking requirements for apartment schemes in development plan should generally be expressed as maximum car parking standards and should exceed 1 space per apartment only in more suburban contexts, to a maximum of 1.5 spaces per apartment dwelling.
- 7.5.14. The Transportation Planning Section report includes a table giving the number of spaces per unit according to the development plan standards, the minimum acceptable and the number proposed. The minimum is stated as 126, development



plan standards 156 and that proposed as 158. In my opinion the onus is on the applicant to justify the need for car parking spaces against the objective of minimising parking provision at this location.

- 7.5.15. The grounds of appeal states that the proposal includes a footpath along the road and suggests a condition to deal with matters outside the red line boundary. The objective of providing for a cycle route along the public road should inform the design of the layout.
- 7.5.16. The Transportation Planning Section report states that the bicycle parking for 210 spaces in 13 separate storage units is acceptable in terms of quantum but refers to the unsuitability of some of the bicycle parking locations; parking for each unit is not provided in a separate secure compartment or within the building footprint; some cycle parking areas have poor passive surveillance. This matter is capable of being addressed and should be addressed by revision to the layout.
- 7.5.17. I concur with the planning authority that the proposed layout would be dominated by vehicle parking and does not prioritise pedestrians and I consider that the development as currently proposed would provide a sub-standard environment for residents which is a reason to refuse permission.

## **7.6. Open Space Provision**

- 7.6.1. The planning report states that open space is short in quantitative and qualitative terms. It is incidental, includes communal areas, environmental areas, narrow spaces, car parking and SUDS features. The playground should be sited so that it is both easily accessible and overlooked by dwellings, while not causing a nuisance to residents nearby. This reflects the report of the Parks and Green Infrastructure section which also states that the proposal gives rise to a requirement of 3900m<sup>2</sup> based on occupancy rates of 208.5 bed spaces and recommends clarification re. provision and financial contribution for shortfall; it offers a critique of each space stating that in general the positioning of car parking in this manner is not recommended as it reduces the views / passive supervision and in particular it blocks the views of drivers if / when children run out to the road from the open space after a ball etc. DMS74 is referred to in relation to the unacceptability of open space (OS area 4 (310m<sup>2</sup>)) which has an underground attenuation tank located beneath it.

- 7.6.2. The grounds of appeal states that 1,650 sq m of public open space will be provided – 10% of site area, with an additional 257 sq m of communal open space: total 1907 sq m – 11.56%; not including incidental open space; and that the space is designed to be adaptable to all uses. It states that there will be a clear definition between public, communal and private spaces; all public areas will benefit from passive surveillance; the open space complies with standards and has been conceived as a green linkage between the site entrance and the northern site boundary.
- 7.6.3. The Board is referred to drawing no 40317-207 where open space locations and the areal extent of each segment is set out.
- 7.6.4. The Board is also referred to drawing no 40317-206 a contextual drawing where the location of open space and ‘visual open space areas’ are identified. As previously stated the ‘visual open space areas’ are roads and car parking areas and their dominance in the layout is apparent in this drawing.
- 7.6.5. In my opinion none of the areas indicated as public open space are suitable for use by the public at large. Given the size and location of the development site it is questionable whether it would be feasible to provide public open space within the subject site. In my opinion the areas shown as open space could be described as incidental spaces and communal areas for shared use by residents only. Many of the spaces are not well designed for amenity use, either because of their limited size/narrow shape or because of adjoining roads/car parking areas. In my opinion the development as proposed is seriously deficient in open space provision, and due to this serious deficiency the development would not provide homes for life, but would be suitable for use only for short to medium term occupation.
- 7.6.6. I concur with the planning authority that the proposed development is sub-standard having regard to the deficiency in open space provision and that this is a reason to refuse permission.

## **7.7. Trees / Hedgerows / Ecological Impact**

- 7.7.1. The impact on trees/hedgerows is referred to in reason no 4 of the refusal decision, and objectives PM64 and DMS77 (protect, preserve and ensure the effective management of trees and groups of trees). The planning report states that the application proposes the removal of the entire western and the remnant of the

townland boundary to the eastern side of the northern boundary. In addition to the removal of these natural boundaries, the proposal includes the removal of trees of acknowledged value in order to accommodate a higher number of units.

- 7.7.2. An Arboricultural Assessment of the Tree Vegetation within the site is submitted with the application. This includes preliminary recommendations regarding the most appropriate management option and does not refer to the removal of any tree other than those of poor physical condition.
- 7.7.3. Drawing No ADC001 - Tree Constraints Plan, shows the location, crown spread and tag number of each tree, categorised into 4 categories: 'U' in such condition that it's removal is recommended; 'A' high quality/value with a minimum of 40 years life expectancy; 'B' moderate quality/value with a minimum of 20 years life expectancy; 'C' low quality/value with a minimum of 10 years life expectancy. Most of the trees on site fall into category 'C', several are category 'B', and one (no 967) is category 'A'. Drawing No ADC002 - Tree Protection Plan, shows the hedgerows and trees to be retained as part of the proposed development and the tree protection areas, (shown hatched). Most of the trees, including the single category 'A' tree and most of the category 'B' trees are to be removed. Trees along the boundary with Allendale House are to be retained.
- 7.7.4. The report states that to facilitate the proposed development layout, it is necessary to remove most of the tree vegetation from the site area, which it says is generally of low quality although it has some value for screening between properties; the bulk of trees, particularly those along the southern and eastern boundaries are of fast growing tree species such as Leyland Cypress and Poplar and these would not be ideal for retention within a development where they are to be retained within small urban gardens; the loss of tree vegetation is to be mitigated within the landscaping of this completed development with the use of trees, shrubs, herbaceous plants, bulbs and hedging.
- 7.7.5. The following is noted from the report and accompanying maps: a group of birch and ash at the north western corner and western end of the site - some being retained; some cedars north of the gateway, to be removed; hedgerow north of the gateway, to be removed; two trees south of Allendale House which are to be retained (both cedars); a group of trees at the north eastern boundary of the Allendale House

boundary, to be retained (oaks, an ash, a weeping willow and two Monterey pines); some poplars and a Monterey pine to be removed at the north eastern corner; a tree belt of Leyland cypress (a double line of Leyland cypress with a line of beech in between) along the eastern boundary, to be removed; a group of poplars near the eastern boundary to be removed; a mature oak (B1 category, tag 985) in the vicinity of the poplars to be removed; a group of poplars near the south eastern corner to be removed; a line of Leyland cypress along the southern boundary to be removed; a line of poplars north of the line of Leyland cypress along the southern boundary, to be removed; a line of trees of mixed species (C2 category), north of the line of poplars along the southern boundary, to be removed; and a group of horse chestnut trees (C2 category) and an Ash (B1 category) at the south western corner, to be removed.

- 7.7.6. The Parks and Green Infrastructure report states that the landscape plan in its current layout is unacceptable; and notes the need for a report on bats.
- 7.7.7. The trees to be removed are of varying value in terms of potential for natural heritage / biodiversity, visual amenity and screening for the proposed development, including protecting the setting/context of Allendale House. The latter appears to have been the only criterion for retaining any trees.
- 7.7.8. Although a survey of the age, height and condition of the trees has been supplied, no survey or assessment of the natural heritage / biodiversity value of the vegetation or other ecological features on the site has been provided.
- 7.7.9. Section 6.2 of the Planning Report which accompanied the application is headed 'Ecological Appraisal'. This is stated to have been prepared with inputs from Mr Ross Maclin PhD (candidate). These paragraphs refer to the value of the site for mammals and birds (mature trees) especially given the highly-urbanised nature of the surrounding areas, and note that trees with ivy were sub-optimal for bats but bat species would likely use the area for foraging.
- 7.7.10. The grounds of appeal states in this regard that potential for bat species cannot be ruled out and suggests a bat survey prior to construction.
- 7.7.11. It is not clear why the input from Mr Maclin was not supplied as a separate report, as in the case of the other expert reports, rather than selected extracts being provided within the applicant's Planning Report.

7.7.12. Given the highly-urbanised nature of the surrounding areas, and the extent of tree and hedgerow removal proposed, the provision of an ecological impact assessment would, in my opinion, be a necessary prerequisite to any development on this site. Such information is necessary to assist the planning authority/Board in evaluating the inevitable loss of some trees/hedgerows in the context of delivering an appropriate scheme which achieves a balance between developmental considerations and the sensitivities of the receiving environment.

## 7.8. **Other Issues**

7.8.1. The Board is advised that a Section 49 supplementary development contribution scheme for the Clonsilla to Dunboyne (Pace) Railway line applies in this instance (Residential: Contribution rate of €167,509 per gross site hectare).

## 8.0 **Recommendation**

8.1.1. In accordance with the foregoing I recommend that permission should be refused, for the following reasons and considerations.

## 9.0 **Reasons and Considerations**

- 1 Having regard to the deficiency in open space provision and the roads and vehicle parking dominated layout, which does not prioritise pedestrians, the proposed development would provide a sub-standard environment for residents and be contrary to the proper planning and sustainable development of the area.

- 2 Having regard to the extent of tree and hedgerow removal proposed, particularly given the highly-urbanised nature of the surrounding areas, the Board cannot be satisfied, in the absence of an ecological impact assessment, that the proposed development would not unduly impact on the natural heritage of the area and thereby be contrary to the proper planning and sustainable development of the area.

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Planning Inspector

24 June 2021

### **Appendices**

Appendix 1: photographs

Appendix 2: Fingal Development Plan 2017-2023, as varied, extract.