



An
Bord
Pleanála

Inspector's Report

ABP-311344-21

Development

PROTECTED STRUCTURE:
Alterations to the development permitted under Reg Ref F17A/0615, as amended by ABP Ref: 306872-20 to include 12 no. additional apartments

Location

Lands that formerly formed part of Santa Sabina Dominican College & Convent Complex, Greenfield Road, Sutton, Dublin 13.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F21A/0345

Applicant(s)

Parsis Limited

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Parsis Limited

Date of Site Inspection

12th February 2022

Inspector

Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 2.46 hectares, is located to the north of Greenfield Road in Sutton, Dublin 13. It is in a residential area that is c. 600 metres south east of the local centre at Sutton Cross and c. 1 km south east of Sutton railway station (1.1 km walking distance). The site is bound by Santa Sabina Dominican College (Secondary School) and the Santa Sabina Manor housing estate to the east. St. Fintan's Parish Church bounds the site to the west. The Glencarraig housing estate is to the north and Greenfield Road is to the south. The site was formally part of the Santa Sabina Dominican College complex and is close to a sports hall and other modern buildings within the school campus. St. Dominic's Convent is a Protected Structure described on the RPS as 'an original 19th century house (convert to convent), entrance avenue & walled garden only'. The convent is on the other side of the modern structures at a distance from the proposed housing blocks. The site has c. 190m frontage onto Greenfield Road opposite Sutton Strand and includes the original bell mouth access to the school from Greenfield Road and a new access that has recently been constructed along the eastern site boundary. The site includes a fenced compound and various pieces of open space with mature trees. It encompasses but excludes a hockey pitch. Its western boundary is with the curtilage of St. Fintan's Church, a Protected Structure described on the RPS as 'a late 20th century Modernist church and belltower (designed by Andrew Devane)'. This boundary is formed by a palisade fence for the most part. Its northern boundary with the rear gardens of 2-storey semi-detached houses in Glencarraig is formed by a high concrete block wall. The site slopes gently from east to west and from south to north. The development permitted under F17A/0615 and ABP-306872-20 is currently under construction on site.

2.0 Proposed Development

2.1. Permission is sought for alterations to the development permitted under Reg. Ref.: F17A/0615, as amended by ABP Ref.: 306872, which is currently under construction.

The proposed alterations consist of the following:

– Provision of 12 additional apartments units (5 no. 1 beds and 7 no. 2 beds) through the provision of an additional penthouse floor to Block B2-B3 and Block C2

(increase in height from 3 to 4 storeys). The proposed includes 7 no. additional apartments in Block B2-B3 (increase from 24-31) and 5 no. additional apartments in Block C2 (increase from 17 to 22 no. units) and includes associated internal and external alterations to each block, including additional balconies for each proposed unit. This will increase the total number of residential units to 155 no., including the 12 no. additional units now proposed, and the 143 no. units approved under Reg Ref.: F17A/0615, as amended by ABP Ref.: 306872-20;

- Extension of the permitted basement area into the substructure area located under the permitted childcare facility at ground floor level of Block C to provide additional bicycle parking (18 no. spaces) and a storage/service area;
- -Changes to landscape area located to the north of Block C2, including changes to access arrangements and additional bicycle parking (6 no. spaces);
- An all associated site works.

No alterations are proposed to Blocks A1-B1, C1 D1, D2 and D3, as approved under ABP Ref.: 306872-20 (which amended Reg. ref.: F17A/0615).

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on 5 reasons.

1. Having regard to the overall scale of the proposed development with specific reference to the increase in height it is considered that the proposed development would be visually dominant within the immediate context in addition to being significantly intrusive on the skyline when viewed from the surrounding areas, the landscape character of which being 'coastal' with the objective being to protect skylines, horizons and ridgelines from development. Furthermore, the proposed development would have a detrimental impact upon the adjoining protected structure of St. Fintan's Church and fails to accord with Objective CH20 of the Fingal Development Plan 2017-2023 which seeks to 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. The proposed development would be incongruous with the streetscape in which it would be proposed to integrate with and would contravene Local Objective 113 of the Fingal Development Plan 2017-2023 which seeks to 'Ensure no development in excess of three storeys'.

2. The proposed development of 12 additional residential units would represent an unacceptable intensification of residential development, a non-conforming land use on this portion of the site which would materially contravene the CI Zoning Objective of the Fingal Development Plan 2017-2023 which seeks to 'Provide for and protect civic, religious, community, education, health care and social infrastructure' and is not considered to be in accordance with Objective Z05 which seeks to Generally, permit reasonable intensification of, extensions to and improvement of premises accommodating non-conforming uses, subject to normal planning criteria.

3. The proposed development would be unduly deficient in car parking spaces which would create a negative impact to the future residential amenities of these units together with the wider impact to the surrounding area where ad hoc car parking would likely take place. To permit the development in its proposed form would be contrary Objective PM41 of the Fingal Development Plan 2017-2023 which seeks to Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.

4. Having regard to the proposed amendments it is likely that the cumulative impacts including changes to ground levels, soil hydrology and reduced light levels on the remaining trees may be detrimental and further tree removal would be contrary to Objective NH36 of the Fingal Development Plan 2017-2023 which seeks to prevent the disturbance or loss of landscape elements that contribute to local distinctiveness arising from new development.

5. The proposed development would not be consistent with the proper planning and sustainable development of the area and would set an undesirable precedent for other similar developments.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (12/08/21): A number of deficiencies were identified including visual impact/setting of a protected structure, material contravention of the zoning objective, deficiency in level of car parking, detrimental impact on trees and contrary the proper planning and development of the area.

3.2.2. Other Technical Reports

Water Services (23/06/21): No objection.

Conservation Officer (13/07/21): The increased height will have a detrimental impact on the adjoining protected structure, St. Fintan's Church.

Irish Water (25/07/21): No objection.

Parks and Green Infrastructure (29/07/21): No objection subject to conditions.

Transportation Planning (05/08/21): Refusal recommended due to inadequate level of parking.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

ABP-306872-20: Alterations to a previously permitted development of 96 no. units under (Reg, Ref: F17A/0615) to provide 143 no. apartments. The total number of

additional/altered residential units subject to this application is 102 no. units with all associated site works.

F17A/0615: Permission granted by Fingal County Council on 18th April 2018 for 86 no. apartments and 10 no. houses on a site of 2.46 ha. A first party appeal in relation to a condition of the permission (ABP-301643-18) was withdrawn prior to a decision.

PL06F. 246404. Reg. ref. F15A/0303: ABP granted permission in 2016 for a development of 68 apartments and 10 houses on a site of 1.559 ha.

PL06F.235619 / F09A/0168: ABP granted permission for 95 no. dwellings on a site of 1.547 ha.

PL06F.232541 / F08A/0441: ABP granted permission for a new entrance and access road to the school and convent.

PL06F.226189 / F06A/1099: ABP refused permission for 111 no. dwellings and a creche on a site of 1.547 ha. The reason for refusal referred to excessive density, overdevelopment, substandard amenity and impacts on the amenities of the area.

5.0 Policy Context

5.1. Development Plan

The Fingal County Development Plan 2017-2023 is the relevant statutory plan for the area. The following provisions are of note:

- The north west part of the site is zoned RS-Residential with an objective to “provide for residential development and protect and improve residential amenity”.
- The southern and eastern part of the site is zoned CI – Community Infrastructure with an objective to “provide for and protect civic, religious, community, education, healthcare and social infrastructure”.

Residential is ‘not permitted’ under this zoning objective.

- Lands on the opposite side of Greenfield Road are zoned HA-High Amenity with an objective to ‘protect and enhance high amenity areas’.

- In relation to the Core Strategy, Table 2.8 refers to a total of 29 hectares of zoned residential / mixed use lands in Baldoyle / Sutton with capacity for 1498 no. residential units.
- Chapter 3 sets out Design Criteria for Residential Development including mix of dwellings, density and open space provision.
- Chapter 4 Urban Fingal sets out objectives for urban settlements. Sutton is described as an established suburb within the Metropolitan Area.
- Chapter 12 Development Management Standards sets out standards for residential development including design criteria and quantitative standards relating to houses, apartments, privacy standards, public and private open space provision, car parking, etc.
- In relation to Open Space provision Objective DMS57 sets a standard that residential development should provide 2.5ha of open space per 1000 population. Objective DMS57a requires a minimum of 10% of site area to be public open space.
- The Development Plan identifies 6 no. landscape character types in Fingal County. The site is within the Coastal Landscape which is identified as a landscape of exceptional value and high sensitivity. This landscape type forms the eastern boundary of the County and contains beaches, islands, headlands and settlements. Objective NH33 is to “Ensure the preservation of the uniqueness of a landscape character type by having regard to the character, value and sensitivity of a landscape when determining a planning application”.
- Objective NH36 is to “ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area....”.
- Objective NH38 is to “Protect skylines and ridgelines from development”.

Map Based Objectives / Designations of relevance:

- Sheet No. 10 Baldoyle / Howth: Site-specific objective, No. 113 applies to the residential zoned section of the site. Objective No. 113 states that development on the site shall not exceed three storeys.

- Sheet No. 10 Baldoyle / Howth: A symbol appears on the map indicating an objective to protect trees and hedges.
- Sheet No. 10 Baldoyle / Howth: There is an objective “To Preserve Views” along the R105 Greenfield Road south of the site.
- Sheet No. 14 Green Infrastructure Map 1: The site is within a ‘Highly Sensitive Landscape Type’.

5.2 National Policy

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities
- Urban Development and Building Heights Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets • Childcare Facilities Guidelines for Planning Authorities
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices)

Other relevant national guidelines include:

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

Project Ireland 2040 - National Planning Framework

The recently published 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. Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

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

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.

Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),

'Housing for All - a New Housing Plan for Ireland' (September 2021).

5.3 Natural Heritage Designations

North Dublin Bay SAC (000206) – c. 50 m south.

Rockabill to Dalkey Island SAC - 2.5 km east / south.

South Dublin Bay SAC (000210) - c. 6.8 km south.

North Bull Island SPA (004006) - c. 50 m south.

South Dublin Bay and River Tolka Estuary SPA (004024) - c. 5.7 km south.

Baldoyle Bay SPA (004016) - c. 0.7 km north.

Malahide Estuary (Broadmeadow / Swords Estuary) SPA (004025) - c. 6.1 km north.

Rogerstown Estuary SPA (004015) - c. 11.3 km north.

5.4 EIA Screening

- 5.4.1 The proposal is for amendment to a permitted residential development with an increase of apartment numbers from 143 to 155. This number of units in conjunction with the permitted is below the mandatory threshold for EIA. I would note that the uses proposed are similar to predominant land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1 A first party appeal has been lodged by John Spain Associates on behalf of Parsis Ltd.

- The proposal for an additional storey on Block B2-B3 and C1 would not be detrimental to the visual amenities of the area with capacity to absorb the increased height and such in keeping with permitted heights within the overall development (5-storeys) The applicant/appellant has submitted an Architectural Design Statement and Visual Impact Assessment and such demonstrate the appropriate visual context of the development.
- The Conservation report and submitted Visual Impact Assessment demonstrate that the proposal would be satisfactory in the context of the setting of the existing protected structure, St. Fintan's Church.
- In terms of building height the proposal for an additional storey is satisfactory in the context of the increased building height permitted by the Board under the SHD application and the Building Heights Guidelines. In relation to Objective 113 it is noted that the proposal could be granted as it would be consistent with the Section 37(2)(b) I, ii and iii.
- In relation to refusal reason no. 2 regarding material contravention of zoning policy, the proposal is for amendment of permitted apartment buildings and entails no material increase in footprint or layout of the permitted development. There is an extensive planning history of residential development granted within the C1 zoning objective at this location. The proposal would also be consistent with The proposal would be consistent with the Section 37(2)(b) i, ii and iii.
- In relation to reason no. 3 regarding parking. The proposal in conjunction with the permitted development on site provides for a level of 1.045 parking spaces per apartment unit. There is also proposal to provide a car share space (Go Car) on site. The appeal site is well served by public transport (Dart and bus infrastructure). The proposal is consistent with the recommendation of the Apartment Guidelines to minimise parking in larger scale higher density developments. The documents submitted include a Mobility Management Plan. Provision is also made for bicycle parking on site. The level of car parking proposed is justified.
- In relation to refusal reason no. 4 there are no changes proposed to the previously permitted landscape plan for the site in terms of removal or

retention of existing trees. The extended basement area does not impact upon existing trees to be retained. Any changes to landscape proposal are minimal and do not impact upon retained trees or the quantum of public or communal open space.

- In relation to refusal reason no. 5 it is noted the having regard to the extent of permitted development on site, the additional development will have no significant or adverse impact over and above the permitted development on site and will be consistent with the proper planning and sustainable development of the area.
- The applicants/appellants clarify a number of matters including that the floor area/dimensions of the one bed units are compliant with the Apartment Guidelines. An updated daylight and sunlight analysis was submitted and such demonstrates that the proposed units achieve appropriate ADF standards. The applicant/appellant clarifies the shadow impact of the amended proposal in relation to the permitted. The proposal does not entail any decrease in the permitted level of public open space, however there is shortfall of 303sqm based on Development Plan requirements of 6,262.50sqm). It is noted that the provision in the overall development is 24.2% of the site area and exceeds the recommended standard of 15% under the Sustainable Residential in Urban Areas Guidelines and that recommended under the Apartment Guidelines.

6.2. Planning Authority Response

6.2.1 Response by Fingal County Council.

- Objective 113 is noted and it is considered that it is not acceptable to allow a further intensification of development on this site having regard to the C1 zoning and Objective Z05. Insufficient car parking would contribute to ad hoc car parking in the area.

7.0 Assessment

7.1. Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Principle of the proposed development/zoning policy

Design, scale, height, protected structure

Car parking

Open space/tree retention

Development control standards/future/adjoining amenity

7.2. Principle of the proposed development/zoning policy:

7.2.1 Permission is sought for alterations to the development permitted under Reg. Ref.: F17A/0615, as amended by ABP Ref.: 306872, which is currently under construction. The amendment is the provision of 12 additional apartments units (5 no. 1 beds and 7 no. 2 beds) through the provision of an additional penthouse floor to Block B2-B3 and Block C2 (increase in height from 3 to 4 storeys). This will increase the total number of residential units to 155 no., including the 12 no. additional units now proposed, and the 143 no. units approved under Reg Ref.: F17A/0615, as amended by ABP Ref.: 306872-20. It is also proposed to extend the permitted basement area into the substructure area located under the permitted childcare facility at ground floor level of Block C to provide additional bicycle parking (18 no. spaces) and a storage/service area with changes to landscape area located to the north of Block C2, including changes to access arrangements and additional bicycle parking (6 no. spaces).

7.2.2 The proposal was refused for a number of reasons listed above. One of the main reasons related to development representing an unacceptable intensification of residential development, a non-conforming land use on this portion of the site which would materially contravene the CI Zoning Objective of the Fingal Development Plan 2017-2023 and be contrary Objective Z05 which seeks to generally, permit reasonable intensification of, extensions to and improvement of premises accommodating non-conforming uses, subject to normal planning criteria.

7.2.3 The appeal site, which has an area of 2.46 hectares was previously part of the grounds of the adjoining school with permission granted on such for a total of 143 residential units (F17A/0615, as amended by ABP Ref.: 306872). The permitted development, which consists of a number of blocks ranging in height from three-to five storeys are under construction on site. The site itself is subject to two zonings. The majority of the site (western and north portion) is zoned RS-Residential with the remainder (south east portion) zoned C1-Community Infrastructure. Residential use is not permitted within this zoning objective and permission has been refused based on the fact it is a non-conforming use and a material contravention of the land use zoning objective. There is a significant degree of planning history on this site including a number of permissions granted for residential development on the C1 zoning objective. A development permission under F17A/0615 and amended by ABP Ref.: 306872 is under construction on the site and the proposal is for amendments to the approved development. Having regard to such, I am of the view that an amended proposal cannot be deemed a non-conforming use and is acceptable in the context of the zoning objective.

7.2.4 In relation to Objective Z05 relating to appropriate intensification, I would note that the following sections of this report deal with issues such as scale, visual impact, compliance with Development Control standards and will address whether the proposal is a reasonable intensification.

7.2.5 As the proposal is an amendment of a permitted development and use on the site, I do not consider that the proposal represents a material contravention of land use zoning policy. Notwithstanding such, I would refer to Section 37(2)(b) which states that Under Section 37(2)...

(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 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.
- (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.

7.2.6 I would be of the view that the proposal could be argued to comply with Section 37(2)(b)(i) and (iii) in the provision of additional housing is consistent with national policy, regional policy, section 28 guidelines and section 29 policy directives. Without any question the proposal is consistent with Section 37(2)(b)(iv) in that it should be granted having regard to the pattern of development and permission granted on the appeal site since the making of the development, which include for residential development with the proposal being an amendment of existing permissions currently being implemented on site.

7.3 Design, scale, height, protected structure:

7.3.1 The first reason for refusal relates to the increased height with the proposal considered to be intrusive on the skyline when viewed from the surrounding areas, the landscape character of which being 'coastal' with the objective being to protect skylines, horizons and ridgelines from development. The proposal was also

considered to have a detrimental impact upon the adjoining protected structure of St. Fintan's Church and fails to accord with Objective CH20 of the Fingal Development Plan 2017-2023 and would contravene Local Objective 113 of the Fingal Development Plan 2017-2023 which seeks to 'Ensure no development in excess of three storeys'.

7.3.2 The appeal site is located on the northern side of the Greenfield Road (R105) overlooking Sutton Creek. The permitted development on site consists of seven blocks. The development is set back from the public road with an existing sports field between the main body of the site and the public road. The amendment is to Block B2-B3 and C1, which are both three-storey blocks. The proposal is to provide a penthouse level on each block set back from the facades at lower level. The applicant submitted a Design Statement and Visual Impact Assessment including photomontages illustrating the proposed and permitted development in the context of the surrounding area.

7.3.3 The permitted development on site includes five-storey blocks. When viewed from the public road to the south Block A-B1 and Blocks B2-B3 are visible, but set back from the public road. Block A-B1, which is adjacent the western boundary of the site is a five-storey block. I would be of the view that provision of an additional penthouse level as proposed on Block B2-B3 can be achieved without any significant visual impact felt in the surrounding area. The amendment increases the height of the block to four-storeys, which is still not as high as the highest element of the scheme. The design of the penthouse level fits in well with architectural character of the permitted scheme and reflects the existing design of the top level of Block A-B1. The additional level on Block C1 has an even less significant visual impact due to its location in the middle of the site with permitted blocks located to the north and south.

7.3.4 I would consider that the photomontages submitted as part of the Design Statement and Visual Impact Assessment show that the amendment to both blocks are proportional relative to the permitted development, consistent with architectural character of the existing permitted development and would not have a significant

visual impact over and above that of permitted development on site. I would be of the view that overall visual impact of the amendment development proposed can adequately be absorbed at this location and would be acceptable in the context of the visual amenities of the area.

7.3.5 The protected structure on the adjoining site is St. Fintan's Church and is located to the west of the site. St. Fintan's Church is a 20th century church set in generous grounds. In my view the amendments to the proposal in terms of increased scale are quite modest in the context of the permitted development on site. The amendments are to two blocks that are located away from the western boundary with the protected structure and provide for an additional floor level making 2 no. block four-storeys in height. The permitted Blocks adjacent the western boundary (A-B1 and C-1) are five-storey blocks and these are remaining unchanged under the proposals. I would be of the view that overall increase in scale is modest in the context of permitted development does not constitute a significant alteration to the relationship between the development on the appeal site and adjoining protected structure or any other structures in the vicinity including the school building from which the site is originally taken from. In this regard I do not consider that proposed development would alter or impact the setting or integrity of the existing protected structure and subsequently would not be contrary Objective CH20.

7.4 Car Parking:

7.4.1 The proposal was refused on the basis of being deficient in car parking provision and would create a negative impact to the future residential amenities of these units together with the wider impact to the surrounding area where ad hoc car parking would likely take place. To permit the development in its proposed form would be contrary Objective PM41 of the Fingal Development Plan 2017-2023 which seeks to Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.

7.4.2 The proposal provides for 12 no. apartments including 5 no. one-bed units and seven no. two-bed units. The requirement under Development Plan policy (Table 12.8) is 1 space per one bed unit and 1.5 spaces per two bed unit with 1 visitor spaces also required for every five units. This gives a requirement of 17.5 spaces. The proposal entails an amendment to the existing basement and surface layout to provide 18 additional bicycle parking spaces but no increase in car parking. The approved development is for 143 units with the proposal increasing this to 155. The approved development unit ABP-306872-20 provided for a development of 143 units with 168 car parking spaces (a rate of 1.17 per unit) in addition to 6 spaces serving a crèche that can be used out of hours. I would refer to the Inspector's report for this file with the site considered to be in an 'intermediate urban location' as defined by the Apartment Guidelines. Such is on the basis that it is within 800- 1000 metres of a suburban centre and within 1,000-1,500 metres of a high capacity urban public transport stop (DART). Such locations are deemed to be suitable for small-scale high-density apartment developments of the type proposed. The permitted development does not meet the standards set out under Table 12.8 of the Development Plan, but was deemed to be satisfactory in the context of its location and the recommendations of the apartment guidelines. The provision of 12 additional apartment entails a rate of 1.045 parking spaces per unit. Despite the decrease in the rate of spaces per apartment, I would be of the view that given the location of the site at 'intermediate urban location' and its accessibility to public transport and provision of car share infrastructure, that the level of parking provided is acceptable and compliant with the recommendations of the Apartment Guidelines.

7.5 Open space/tree retention:

7.5.1 The fourth refusal reason states that it is likely that the cumulative impacts including changes to ground levels, soil hydrology and reduced light levels on the remaining trees may be detrimental and further tree removal would be contrary to Objective NH36 of the Fingal Development Plan 2017-2023 which seeks to prevent the disturbance or loss of landscape elements that contribute to local distinctiveness arising from new development.

- 7.5.2 The proposal for an increased basement level does not alter the layout of open space areas or the level of existing trees to be retained on site significantly. The applicant has submitted an updated site layout with the appeal confirming the level of retained trees is as per the permitted development on site. There is a very minor change in layout adjacent the eastern side of Block C2, however such does not impact on the level of tree retention or provision of communal open space.
- 7.5.3 There is an increase in the number of units proposed with the same level of communal open space. It is was already noted that the level of communal space permitted was shy of Development Plan standards, which is based on no. of persons. The applicants/appellants note that the level of communal space is still as per the permitted development. I would be of the view that the level of communal open space provided on site is sufficient and that the increased number of units can adequately be catered for in addition to permitted development. All units are provided with the required standard of private open space and the area is highly accessible to existing areas of high amenity.
- 7.6 Development control standards/future/adjoining amenity:
- 7.6.1 The relevant standards for assessing the apartment units are the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020. All additional apartment units meet the recommended standards in terms of floor area, room dimensions, storage spaces, provision of dual aspect units and provide for a development of sufficient quality for future residents.
- 7.6.2 In relation to adjoining amenity, existing residential development is located to the north of the site with adjoining uses to the east and west being institutional in nature. The amendments are to Blocks that are located away from existing residential development to the north of the site and there is no change to permitted blocks that are immediately adjoining existing residential development (Glencarraig).
- 7.6.3 The applicant submitted a revised Daylight and Sunlight Assessment accounting for the amended development/increased scale. This describes the performance of the

development against criteria in the BRE Guidelines (The Building Research Establishment guidelines on Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice). In relation to daylight impact on adjoining residential properties the test for assessment of such under the BRE guidelines is whether the distance of each part of the new development from the existing window is three or more times its height above the centre of the window. If yes no further analysis is required, if no the second test is whether a line drawn from the centre of the existing windows at a 25 degree angle cuts through the new development. If no the proposal is unlikely to have substantial effect. In this case there are no residential properties that come within the zone of influence of the two blocks subject to increased height and no assessment of daylight impact for adjoining properties is required.

7.6.4 There is an assessment of Average Daylight Factor (ADF). The report notes that the requirements (Based on BS 8206-2) is for 2% for kitchens and living rooms containing a kitchen, 1.5% from living rooms and 1% for bedrooms. The apartments all feature open plan kitchen/living areas. The report provides ADF values for the ground floor of Block A-B1 (permitted), Block C1 (permitted), Block B2-B3 (amended) and Block C2 (amended). All apartments and the individual rooms meet the required standards with only one apartment having a kitchen living area below 2%. In this case the apartment in question was still above 1.5% and is unchanged in ADF from the previously permitted development. Given the standards available at the lowest floor I am satisfied that the upper floors are unlikely to exhibit lower standards. The proposed development and permitted apartments are unlikely to be deficient in terms of daylight standards.

7.6.5 The applicants report also includes an assessment of sunlight to gardens and open spaces. The requirement under the BRE guidelines is that such spaces would provide for a minimum of 2 hours of sunlight over 50% of the amenity space on the 21st of March. There are three areas of communal open space (S1, S2 and S3), all of these spaces will meet the recommended standard. The results of the assessment of both communal/public development meet the required standard. The report submitted with the appeal also includes a shadow analysis with provision of shadow

diagrams for various times on the 21st of March, 21st June, 21st of September and the 21st of December. The diagrams show the permitted development in comparison with the amended development. These illustrate that the proposal would have no significant or adverse impact on adjoining properties over and above the permitted development on site.

7.6.6 I am of the view that the revisions proposed providing for 12 no. apartments would be satisfactory in the context of development Plan policy (Objective ZO5) in that the development provides for a satisfactory level of amenity for future residents without having an adverse impact on adjoining properties.

7.7 Conclusion:

7.7.1 The proposal is for amended to a permitted development adding 12 no. apartment to the development of 143 no. units. The proposal provides for a development of a satisfactory standard in terms of overall, scale, design, visual impact, the setting of an adjoining protected structure, traffic impact and adjoining amenity. The proposal provides for additional residential development in the C1 zoning objective where such is not a permitted use. The Planning Authority have refused permission on the basis that the proposed development materially contravenes zoning policy. I am of the view that the Board can grant permission under the provision of Section 37(2)(b)(iv) and the rationale for such is outlined under Section 7.2.5 above.

8.0 **Appropriate Assessment**

8.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 **Recommendation**

9.1. I recommend a grant of permission subject to the following conditions.

10.0 **Reasons and Considerations**

Having regard to the following:

- (a) the provisions of the Fingal Development Plan 2017-2023, including the zoning objectives for the site',
- (b) the Housing for All-A New Housing Plan for Ireland (September 2021),
- (c) the 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
- (d) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (e) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020,
- (f) the nature, scale and design of the proposed development,
- (g) the availability in the area of a wide range of social, community and transport infrastructure,
- (h) the pattern of existing and permitted development in the area,
- (i) the planning history within the area,
- (j) the report of the Inspector and the submissions and observations received,

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the plans clarifying layouts submitted to the Board on the 01st November 2021, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The development shall be carried out and completed in conditions set down under ref no.s Reg Ref.: F17A/0615, as amended by ABP Ref.: 306872-20.

Reason: In the interests of clarity.

3. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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

Colin McBride
Senior Planning Inspector

14th February 2022