



An
Bord
Pleanála

Inspector's Report

ABP-321653-25

Development	Construction of a dwelling with all associated site works
Location	2A and 2B Boroimhe Oaks, Swords, Co. Dublin, K67 X9P0 and K67 T1H5
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F24A/0939
Applicant(s)	Pat & Jackie Rafferty.
Type of Application	Permission.
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Pat & Jackie Rafferty.
Observer(s)	None.
Date of Site Inspection	21 st March 2025.
Inspector	R Taylor

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Appendix 1 – Form 1: EIA Pre-Screening & Form 2: EIA Preliminary Examination

1.0 Site Location and Description

- 1.1 The appeal site is located to the rear of nos. 2A & B Boroimhe Oaks in Swords. These are two storey dwellings, and are a subdivided former detached dwelling. The dwellings are finished in brick with pitched and tiled roof. At the front of the site there are two hardstanding parking areas with planting around the boundaries. These areas are subdivided by low hedging. There is a public footpath including grassed verge adjacent to the site frontage. The overall site is broadly rectangular in shape. The aspect of the site is broadly aligned west (front) to east (rear). The topography of the site and environs is broadly level.
- 1.2 The rear of the site comprises garden areas relating to the respective dwellings. Rear access is facilitated by pathways approximately 1.5m and 1.1m in width adjacent to the respective gables. 2B Boroimhe Oaks has a single storey rear extension. There is a single storey outbuilding located in the northeastern corner of the site. Rear site boundaries comprise a block wall approximately 2m in height.
- 1.3 There is a detached 2 storey dwelling, no.6 immediately adjacent to north of the site. To the south and east/rear, there is a large site that has been cleared with temporary fencing along its frontage with Boroimhe Oaks.
- 1.4 The site forms part of a larger housing development consisting of semi-detached and detached dwelling types also on broadly rectangular shaped plots, save for a 3 storey apartment development/buildings further to the south. There is a grassed public open space area opposite the site frontage.

2.0 Proposed Development

- 2.1 The proposal comprises the construction of a single-storey two-bedroom detached dwelling to the rear of 2A & 2B Boroimhe Oaks (semi-detached dwellings) with all associated site works including new vehicle entrance.
- 2.2 The proposed dwelling has a stated floor area of 71.2 sqm. The dwelling has a monopitch roof design with roof rising towards the rear boundary and ridge height of 5.153m, with eaves height of 2.934m along the front elevation. The building is rectangular in shape, 13.8m in length and 6.4m in width. Accommodation comprises a central living area/kitchen with bedroom and dedicated ensuite at either end of the floorplan. There are 3 window

openings along the front elevation with 2 at the rear. There are also 2 gable windows for the ensuite rooms.

- 2.3 The building is sited 1m off the rear and side site boundaries and 3.750m between a new fence boundary and the front elevation. The dwelling is sited approximately 9.9m from the rear elevation of the single storey extension of 2B Boroimhe Oaks, the closest part of the adjacent buildings towards the front of the site. There is a separation distance of approximately 16m between the front elevation of the proposed dwelling and the two-storey rear elevation of the dwellings at 2A and 2B Boroimhe Oaks. The proposal also includes revision to the layout and alignment of the rear site boundaries for these dwellings to accommodate the proposal.
- 2.4 The proposal also includes subdivision of the existing front garden/driveway area to facilitate a new access (3.1m wide) and driveway area, approximately 4.9m in width and 8.8m in length. New boundary treatments are also included.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority refused permission and the decision is dated 16th December 2024. One refusal reason is attached to the decision:

The subject site is zoned 'RS' Residential under the Fingal Development Plan 2023 – 2029, the objective of which is to 'Provide for residential development and protect and improve residential amenity'. Given the site size, the existing dwellings on site, the proposed dwelling, by reason of its location and positioning is considered to be overdevelopment of the site and would not respect the existing residential setting. It is considered that the proposed development would be substandard and out of character with the established pattern of development in the area. The proposed development would be contrary to Sections 14.6.4 Residential Standards, Objective DMSO31, Objective DMSO32 of the Fingal Development Plan 2023-2029, and if permitted, would, set an undesirable precedent for similar developments in the area and would, therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- There is a single planning report on file dated 13th December 2024.
- Pre-planning consultations were not undertaken.
- Principle is acceptable subject to the RS zoning objective of the Plan.
- Proposed side access passageway is 1.5m and narrow. This contravenes Objective DMSO26 which requires a minimum of 2.3m.
- Proposed finish materials deviate from the context and are unacceptable.
- Floor area complies with section 14.8 standards.
- Design does not comply with DMSO19 and section 14.8.1 of Plan.
- Amenity space layouts are irregular in shape diminishing quality and useability. The proposal leaves existing dwelling garden areas of 78sqm and 60sqm. Amenity space for the proposal is unacceptable and contrary to DMSO27.
- Adverse impacts on residential amenity of adjacent properties. Layout is inconsistent and uncharacteristic of the area, and incongruous pattern of development. The proposal would negatively impact on visual amenity.
- If approved an undesirable precedent would result in increased pressure on Boroimhe estate and is contrary to Objectives DMSO31 and SPQHO42.
- DMSO32 supports development of underutilized corner sites, however the proposed site does not meet this definition and does not adequately address the context.
- Referral responses from Dublin Airport, Water Services Uisce Éireann, Parks & Green Infrastructure, and Transportation are noted as having no objections.
- Parking and access facilities are acceptable.
- No significant effects in relation to Appropriate Assessment or Environmental Impacts.

3.2.2. Other Technical Reports

- Water Services: no objections.
- Environment Section: no objection.

- Transport Department: no objections. Parking meets Zone 1 requirement of the plan. Access and sightlines comply with DMURS requirements, subject to revisions to the entrance by either widening to 4m or reduction in height the boundary wall and planting to not more than 900mm for pedestrian-vehicular intervisibility. Conditions recommended.
- Parks & Green Infrastructure: no objection subject to condition for protection of grass verges during construction stage.
- Dublin Airport: located within Noise Zone C of the Plan. Noise mitigation measures as planning condition required. No other objections.

3.3. Prescribed Bodies

- Uisce Éireann: no objections subject to standard connection agreement for new dwellings.

3.4. Third Party Observations

- None.

4.0 Planning History

- Appeal Site:
- F22A/0120: Construction of a new two storey, 2 bedroom semi-detached house to replace existing family flat to the side of 2A Boroimhe Oaks, plus all associated site works including new vehicle entrance. Grant Permission 13 Jul 2022.
- F12A/0362: Demolition of single storey projection to side of dwelling house to contain utility room and playroom. Erection of additional two storey dwelling house with single storey rear projection, to be built adjoining side of main dwelling house, to be known as 2B Boroimhe Oaks. Existing and proposed additional dwelling house to share existing front forecourt and entrance off public roadway for entrance and car parking. Refuse permission 18 Jan 2013.
- Adjacent site (to south and east/rear):
- ABP Ref: TA06F.314253: 7 year permission for 219 no. apartments, creche and all associated site works. Pinnock Hill, Fosterstown North, Swords. Strategic Housing Development. Grant Permission with Conditions 30/03/2023. Hoardings erected and site cleared.

5.0 Policy Context

5.1 Development Plan

- The Fingal Development Plan 2023 – 2029 was made on 22nd February 2023 and came into effect on 5th April 2023. It has regard to national and regional policies in respect of residential development. The following policy considerations are relevant based on the nature of the proposal:
- Chapter 13 Land Use Zoning: Swords Sheet No.8 Zoning Objectives - RS – Residential: Provide for residential development and protect and improve residential amenity. Residential is detailed as 'permitted in principle' in this zoning.
- Chapter 3: Sustainable Placemaking and Quality Homes.
- Objective SPQHO9 – Consolidated Residential Development: Consolidate within the existing urban footprint, by ensuring of 50% of all new homes within or contiguous to the built-up area of Dublin City and Suburbs and 30% of all new homes are targeted within the existing built-up areas to achieve compact growth of urban settlements, as advocated by the RSES.
- Objective SPQHO10 – New Residential Development: Focus new residential development on appropriately zoned lands within the County, within appropriate locations proximate to existing settlement centres where infrastructural capacity is readily available, and along existing or proposed high quality public transport corridors and active travel infrastructure in a phased manner, alongside the delivery of appropriate physical and social infrastructure. Active travel options should also be considered while liaising with the National Transport Authority and Transport Infrastructure Ireland to ensure public transport options to and from new developments to local amenities such as shops and libraries.
- Objective SPQHO11 – Housing Need: Ensure that adequate and appropriate housing is available to meet the needs of people of all incomes and needs including marginalised groups within our communities, including but not limited to, Traveller households, older persons, people with disabilities, and the homeless, through an appropriate mix of unit types, typologies and tenures provided in appropriate locations and in a manner appropriate to specific needs.
- Policy SPQHP20 – Adaptable and Flexible Housing: Promote all new housing to be designed and laid out in an adaptable and flexible manner to meet the needs of the homeowner as they age as set out in Section 5.2 Flexibility and Adaptability Quality Housing for Sustainable

Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities 2007 published by the Department of Environment, Heritage and Local Government.

- Policy SPQHP35 – Quality of Residential Development: Promote a high quality of design and layout in new residential developments at appropriate densities across Fingal, ensuring high-quality living environments for all residents in terms of the standard of individual dwelling units and the overall layout and appearance of developments. Residential developments must accord with the standards set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG 2009 and the accompanying Urban Design Manual – A Best Practice Guide and the Sustainable Urban Housing; Design Standards for New Apartments (DHLGH as updated 2020) and the policies and objectives contained within the Urban Development and Building Heights Guidelines (December, 2018). Developments should be consistent with standards outlined in Chapter 14 Development Management Standards.
- Policy SPQHP36 – Private and Semi-Private Open Space: Ensure that all residential development within Fingal is provided with and has access to high quality private open space and semi-private open space (relative to the composition of the residential scheme) which is of a high-quality design and finish and integrated into the design of the residential development.
- Objective SPQHO35 – Private Open Space: Require that all private open spaces for houses and apartments/duplexes including balconies, patios, roof gardens and rear gardens are designed in accordance with the qualitative and quantitative standards set out set out in Chapter 14 Development Management Standards.
- Objective SPQHO39 – New Infill Development: New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.
- Objective SPQHO40 – Development of Corner or Wide Garden Sites: Favourably consider proposals providing for the development of corner or wide garden sites within the curtilage of existing dwellings in established residential areas subject to the achievement of prescribed standards and safeguards set out in Chapter 14 Development Management Standards.
- Objective SPQHO42 – Development of Underutilised Infill, Corner and Backland Sites: Encourage and promote the development of underutilised infill, corner and backland sites in

existing residential areas subject to the character of the area and environment being protected.

- Objective SPQHO43 – Contemporary and Innovative Design Solutions: Promote the use of contemporary and innovative design solutions subject to design respecting the character and architectural heritage of the area.
- Chapter 14 Development Management Standards:
- 14.5 Consolidation of the Built Form: Design Parameters
- Table 14.4: Infill Development: Infill Development presents unique opportunities to provide bespoke architectural solutions to gap sites and plays a key role in achieving sustainable consolidation and enhancing public realms.

Proposals for infill development will be required at a minimum to:

- Provide a high-quality design response to the context of the infill site, taking cognisance of architectural form, site coverage, building heights, building line, grain, and plot width.
- Examine and address within the overall design response issues in relation to overbearance, overlooking and overshadowing.
- Respect and compliment the character of the surrounding area having due regard to the prevailing scale, mass, and architectural form of buildings in the immediate vicinity of the site.
- Provide a positive contribution to the streetscape including active frontage, ensuring that the impacts of ancillary services such as waste management, parking and services are minimised.
- Promote active street frontages having regard to the design and relationship between the public realm and shopfronts of adjacent properties.
- 14.6 Design Criteria for Residential Development in Fingal:
- 14.6.6 External Factors for Consideration: 14.6.6.1 Daylight and Sunlight, 14.6.6.4 Overlooking and Overbearance.
- Objective DMSO19 – New Residential Development: Require that applications for residential developments comply with all design and floor area requirements set out in:
 - Quality Housing for Sustainable Communities – Best Practice Guidelines 2007,

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009, the companion Urban Design Manual – A Best Practice Guide, DEHLG 2009,
- Sustainable Urban Housing: Design Standards for New Apartments 2020.
- 14.8.1 Floor Areas: The minimum size of habitable rooms for houses shall conform with dimensions as set out in Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities 2007 or the appropriate National Guidelines standards in operation at the date of lodging the application for planning permission.
- Objective DMSO23 – Separation Distance: A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over three-storeys in height, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.
- 14.10.1 Corner/Infill Development: The development of infill housing on underutilised infill and corner sites in established residential areas will be encouraged where proposals for development are cognisant of the prevailing pattern of development, the character of the area and where all development standards are observed. While recognising that a balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill, such development provides for the efficient use of valuable serviced land and promotes consolidation and compact growth. Contemporary design is encouraged and all new dwellings shall comply with Development Plan standards in relation to accommodation size, garden area and car parking.
- Objective DMSO31 – Infill Development: New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.
- Objective DMSO32 – Infill Development on Corner / Side Garden Sites: Applications for residential infill development on corner/side garden sites will be assessed against the following criteria:
 - Compatibility with adjoining structures in terms of overall design, scale and massing. This includes adherence to established building lines, proportions, heights, parapet levels, roof profile and finishing materials.

- Consistency with the character and form of development in the surrounding area.
Provision of satisfactory levels of private open space to serve existing and proposed dwelling units.
- Ability to safeguard the amenities of neighbouring residential units.
- Ability to maximise surveillance of the public domain, including the use of dual frontage in site specific circumstances.
- Provision of side/gable and rear access arrangements, including for maintenance.
- Compatibility of boundary treatment to the proposed site and between the existing and proposed dwellings. Existing boundary treatments should be retained/ reinstated where possible.
- Impact on street trees in road-side verges and proposals to safeguard these features.
- Ability to provide a safe means of access and egress to serve the existing and proposed dwellings.
- Provision of secure bin storage areas for both existing and proposed dwellings.
- 14.17 Connectivity and Movement:
- Objective DMSO115 – Restriction of New Access Arrangements: Restrict unnecessary new accesses directly off Regional Roads... Ensure that necessary new entrances are designed in accordance with DMRB or DMURS as appropriate, thereby avoiding the creation of traffic hazards.
- Objective DMSO118 – Road Safety Measures: Promote road safety measures in conjunction with the relevant stakeholders and avoid the creation of traffic hazards.

5.2 Relevant National or Regional Policy / Ministerial Guidelines

- National Planning Framework - Project Ireland 2040:
 - National Policy Objective 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
 - National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).
- The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009.
- Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).
- Design Manual for Urban Roads and Streets.

5.3 Natural Heritage Designations

- The site is not within or adjacent to a designation. The closest Natural Heritage designations are as follows:
 - Malahide Estuary SPA Site Code 004025 c. 2.74km
 - Malahide Estuary SAC Site Code 000205 c. 2.74km
 - Malahide Estuary pNHA Site Code 000205 c. 2.74km
 - Feltrim Hill pNHA Site Code 001208 c. 2.21km
 - Sluice River Marsh pNHA Site Code 001763 c. 5.66km
 - Baldoyle Bay SPA Site Code 004016 c. 6.64km
 - Baldoyle Bay SAC Site Code 000199 c. 6.64km
 - Baldoyle Bay pNHA Site Code 000199 c. 6.62km
 - Rogerstown Estuary SAC Site Code 000208 c. 6.65km
 - Ireland's Eye SPA Site Code 004117 c. 11.4km

6.0 EIA Screening

- 6.1 Having regard to the nature, size, and location of the proposed development and to the criteria set out in schedule 7 of the regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the

proposed development. EIA, therefore, is not required. Refer to completed Forms 1 and 2 at Appendix 1 of this report.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1 The appellant's case is set out by O'Neill Town Planning on their behalf. A summary of the grounds of appeal are as follows:

7.1.2 National Planning Framework (NPF) 2040: this supports redevelopment of brownfield and infill sites. Objectives 3A, 4 and 35 are referenced and support the proposal. The site is appropriate for increased density, consistent with the new character and pattern of development in the area and close to a mass transport link.

Sustainable Development and Compact Settlements – Guidelines for Planning Authorities (2024) (SDCSGPA):

7.1.3 Specific Planning Policy Requirements (SPPR) are referenced: SPPR1- Separation Distances, SPPR2 Minimum Private Open Space Requirements for Houses (minimum areas), SPPR3 Car Parking, SPPR4 Cycle Parking and Storage. The proposal complies with these requirements.

7.1.4 Density: the proposed density of 42 dwellings per hectare is sub-optimal given government policy, however the density is appropriate for the context and ensures the sustainable use of infrastructure in the area.

7.1.5 The overall site is 760sqm, between 2-3 times the size of semi-detached houses adjacent. The individual site sizes at 241sqm, 241 sqm, and 259 sqm are also consistent. Adjacent plots range from 231.4sqm – 501.7sqm.

7.1.6 The proposal complies with DMSO 26 separation distances. There is 2.7m between 2A and the adjacent dwelling at no.6 and therefore exceeds the requirement of 2.3m.

7.1.7 The proposal is not obtrusive and unsympathetic. There is a 5 storey apartment development, large creche close to the boundary, with 3 apartments above, a bin store adjacent to the rear wall of the appeal site. It is incorrect to suggest that the development is obtrusive or unsympathetic given the immediate hinterland of development.

7.1.8 The proposal is considered contrary to DMSO 27 – minimum open space provision. The

proposal complies with requirements in the plan and exceeds the SDCSGPA 2024 guidelines. It provides a 100% increase above the 2024 minimum standard (60sqm provided v 30sqm required).

- 7.1.9 Precedent, Objectives DMSO 31 and SPQHO 42: Adjacent sites are insufficient to accommodate similar proposals and therefore no adverse precedent would result. The proposal complies with national guidance and taking account of emerging character and pattern of development, the increase in density is acceptable. The proposal, and type/nature of development, should be accepted to meet increased density guidelines and shortages in housing provision.
- 7.1.10 There will be no adverse impacts on amenity, including overlooking/privacy, loss of light, or overbearance due to distance to adjacent properties and orientation.
- 7.1.11 The proposal meets DMURS requirements. The Transport Department are satisfied with the parking and access arrangements.
- 7.1.12 Parks and Green Infrastructure have no objections.
- 7.1.13 The rationale for the proposal is to facilitate accommodation for a family member, as they cannot secure living accommodation on the open market. It is an opportunity to support family accommodation. The appellant would accept a first resident occupier condition, which can be facilitated in the Planning and Development Act 2000.

7.2. Applicant Response

- 7.2.1 N/A – The applicant is the appellant.

7.3. Planning Authority Response

- 7.3.1 No further comment is provided in relation to the issues raised by the appellant.
- 7.3.2 In the event of a successful appeal, provision should be made for the following:
1. A financial contribution or provision for any shortfall and open space and or any special development contributions required in accordance with Fingal County Council Section 48 Development Contribution Scheme.
 2. The inclusion of a bond/ cash security for residential developments of two or more units.
 3. Conditions where a tree bond or a contribution in respect of a shortfall of play provision facilities are required.

7.4. Observations

7.4.1 No observations have been received.

7.5. Further Responses

7.5.1 None received from any party.

8.0 Assessment

8.1. Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The main issues, therefore, are as follows:

- a) Principle;
- b) Density;
- c) Separation Distances;
- d) Layout and impact on character;
- e) Amenity impacts;
- f) 14.6.4 Residential Standards;
- g) Precedent
- h) Housing Need for family member;
- i) Access and Other issues;

- a) Principle;

8.2 The site is zoned RS 'Residential' with an objective to 'Provide for residential development and protect and improve residential amenity. The plan details that residential uses are Permitted in Principle on 'RS' zoned lands. Strategic policies and guidance support the provision of additional housing within urban areas and on previously developed land.

8.3 The application proposes one house to the rear of 2 existing residential properties on RS zoned lands. Subject to further assessment below and having regard to the above zoning objective, and wider aims of strategic policies, the proposed development of one house at

this location is broadly acceptable in principle.

b) Density;

- 8.4 The appellant argues that the proposal provides an appropriate density based on the locality of the site. Density is not referred to in the refusal reason by the Council or specifically discussed within the planning report.
- 8.5 The Fingal Development Plan discusses density at 3.5.11.3 in chapter 3. Of note, this section states *“density is not the sole determinant in achieving appropriate consolidation, and it is important that the scheme is respectful of its context, the nature and character of the surrounding area and has regard to prevailing patterns of development locally. The approach must be plan led, incorporating a high-quality urban design and ultimately contribute positively to the urban fabric of the area. In determining densities, regard should be given to Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009 and its companion document Urban Design Manual – A Best Practice Guide.”* This is broadly repeated at section 14.5.2 and 14.6.3 within the Design Criteria section, with the latter further expanding stating development should have *“regard to factors including the location of the site, accessibility to public transport and the principles of sustainability, compact growth and consolidation.”*
- 8.6 Figure 2.1: Core Strategy Map of the plan designates Swords as a key Town. The 2009 Guidelines at 3.3.3 discusses Key Towns and Large Towns of 5,000+ population. The site is within a Key Town / Large Town - Centre and Urban Neighbourhood at Table 3.5, and states that *“residential densities in the range 40 dph-100 dph (net) shall generally be applied in the centres and urban neighbourhoods.”*
- 8.8 In terms of the broader issue of density, I consider that greater weight should be afforded to the plan as the statutory document and has primacy over the guidelines. As the proposal is approximately 42 dph, this is within the stated range of 40-100 dph of the 2009 guidelines and is therefore acceptable.

c) Separation Distances

- 8.9 The appellant's case largely relies on regional policy and guidelines supporting increased density and adequate amenity space provision. The Fingal Development Plan discusses separation distances between buildings at section 14.6.6.3. It stipulates *a minimum standard*

distance of 22 metres between directly opposing rear first floor windows shall generally be observed. It does not stipulate a minimum separation distance between opposing ground floor windows. The plan is the statutory document for the area and therefore has primacy over the guidelines.

8.10 In the present case the proposal represents backland development. The proposed dwelling is single storey in height with a separation distance of 12.2 metres between the front elevation of the proposed dwelling and the main rear elevations of numbers 2A and 2B at the front of the site to the West. 2B also has a single storey rear extension and has a separation distance of 10 metres between the front elevation of the proposed dwelling and rear elevation of the single storey extension. There are directly opposing windows between the single storey extension and the proposed dwelling, the former relating to a living room and a bedroom window within the proposed dwelling.

8.11 The separation distances provided are significantly lower than the specified requirement for first floor habitable rooms, though I acknowledge that this is not fully applicable in this case due to the single storey design of the proposed dwelling. In determining whether the separation distances are acceptable, this must be weighed against an assessment of amenity impacts which are considered below.

d) Layout and impact on character;

8.12 The appellant considers that the layout is acceptable and will not adversely impact on the character of the area taking account of development schemes that have recently been developed and resulting evolving character in the area. The Council consider that the proposal would be uncharacteristic in this suburban residential setting and inconsistent with the broadly established development of the surrounding area, result in an incongruous pattern of development, and therefore does not meet objectives DMSO31 and SPQHO42.

8.13 The proposal comprises backland development as it consists of a dwelling within the rear gardens of 2 semi-detached dwellings, with reorganisation and realignment of site boundaries at the rear of the existing dwellings. I agree with the Council that relevant considerations are objectives SPQH 42, DMSO 31, and 14.10.1. Notwithstanding this, I also consider that section 14.5 is applicable. This sets out “Design Parameters for Consolidation of the Built Form”. Table 14.4 relates to all infill development, specifying 5 minimum (my emphasis) criteria all infill proposals must meet.

8.14 SPQH42 supports “underutilised backland sites... subject to the character of the area and

environment being protected.” To my mind therefore there are two tests. The first being if the site is underutilised, and the second relating to character and protection of the environment. In relation to whether the site is underutilised, it presently forms the private outdoor amenity space for 2 existing dwellings. There is no evidence from my site visit that they are not actively used and therefore underutilised. The amenity space provision was a requirement within the policy context at the time of consideration for the detached dwelling and subsequent revision to semi-detached dwellings. The appellants perceived compliance with reduced amenity space requirements from recent policy does not, in itself, demonstrate that the existing amenity areas are underutilised.

8.15 The second test of SPQHO42 relates to impact on the character of the area, which is further expanded in DMSO31, table 14.4, and 14.10.1. In terms of visual amenity, the proposal would have a negligible impact due to the single storey design and height of boundary treatments around the site. Whilst the adjacent redevelopment scheme would open public views of the appeal site, views would be largely limited to the roof form and structure.

8.16 14.10.1 requires, *inter alia*, proposals “...are cognisant of the prevailing pattern of development.” The first criterion of Table 14.4: Infill Development also requires “a high-quality design response to the context of the infill site, taking cognisance of architectural form, site coverage, building heights, building line, grain, and plot width.” In layout terms, the proposal would be atypical and not characteristic of the area. From my site visit, I did not observe any built form or layout similar to that proposed in the area and have not been directed to any similar examples by either party. The surrounding context is almost entirely detached or semi-detached dwellings within broadly rectangular sites, with the principle front elevations directly orientated towards a public street. The proposal would have no direct relationship with any public space or street which is uncharacteristic. In addition, the proposed access arrangements for the new dwelling are not characteristic, which is facilitated via a narrow alley adjacent to the gable of the existing dwelling number 2A. All other dwellings in the area have direct access to the respective dwelling facilitated from an adjoining incutillage driveway/garden area to the front of the properties. The alley would be shared with no. 2A to facilitate access to the rear garden area. I consider that this layout arrangement would adversely impact on privacy for both properties and, in conjunction with the other layout issues discussed above, would not provide a high-quality design and layout as required by policy SPQHP35, 14.10.1, and Table 14.4.

8.17 I therefore conclude that the proposal fails the first and 4th criteria of table 14.4, 14.10.1 in that it would not be cognisant of the prevailing pattern of development, DMSO31 as the

physical character of the area would not be retained and would not result in a high-quality design and layout in accordance with SPQHP35. The proposal would not therefore be sympathetic or characteristic of the area.

- 8.18 The refusal reason also refers to objective DMSO 32. This refers to infill development on corner or side garden sites and lists 10 criteria against which proposals will be assessed. I do not consider that this objective is relevant in this case as it is a proposal for backland development, rather than a corner site, taking account of the adjacent approved redevelopment. Notwithstanding this, the majority of issues within the criteria are broadly covered within other objectives and residential standards set out in section 14 of the plan.
- 8.19 Whilst not specifically referred to within the refusal reason, the planning report considers the proposal contrary to Objective DMSO 26 which requires a minimum 2.3 metres separation distances between dwellings. I do not consider that this objective is relevant in this case as there are no dwellings immediately adjacent to the northern, southern, or eastern site boundaries, relative to the proposed dwelling. To the north is the rear garden area of the adjacent dwelling at number 6. In addition, there are no dwellings immediately adjacent to the eastern and southern boundaries as part of the approved scheme on the adjacent site. The proposal would not alter the spatial relationship between the existing dwellings at the front of the site and adjacent properties.

e) Amenity impacts;

- 8.20 The Council consider that the proposal would be detrimental to the residential amenities of future occupiers. Their concerns principally relate to the amenity space layout and arrangement, but do not discuss or consider privacy, overshadowing, or overbearance, which is a requirement within section 14.6 Design Criteria.

Amenity Space:

- 8.21 The appellants statement of case sets out an assessment of private amenity space provision for all three sites against policy requirements in the development plan and recent 2024 guidance. In summary, it is argued that the proposal complies with latest guidance requirements which are less stringent than those stipulated in the development plan on which the Council have based their assessment. The comparative table is below:

PRIVATE OPEN SPACE ASSESSMENT

PROPERTY	BEDROOMS	PRIVATE OPEN SPACE REQUIREMENT AS PER FINGAL COUNTY DEVELOPMENT PLAN 2023-2029 STANDARD.(SQ.M.)	PRIVATE OPEN SPACE REQUIREMENT AS PER SUSTAINABLE RESIDENTIAL DEVELOPMENT AND COMPACT SETTLEMENTS (2024) .(SQ.M.)	PRIVATE OPEN SPACE PROVIDED .(SQ.M.)	PERCENTAGE INCREASE OVER MINIMUM 2024 STANDARD
Existing House 2A	5	75	50	78	56
Existing House 2B	2	60	30	60	100
Proposed House 2C	2	60	30	60	100

Source: Fingal County Development Plan 2023 -2029, Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (2024)*

- 8.22 The Council report also argues that the gardens are irregular in shape and considerably diminish the quality and usability of these spaces and constitute over development which would be detrimental to residential amenity of future occupiers. It concludes that the proposal is contrary to objective DMSO 27.
- 8.23 DMSO 27 is not referred to in the refusal reason of the decision. Nonetheless the amenity space provision requires consideration. The plan is the statutory document for the area and therefore has primacy over the guidelines in relation to amenity provision. The alignment and layout of the revised amenity garden areas to the rear of the existing dwellings is revised as part of the proposal. The rear garden area for 2A has a stated area of 78 square metres. The boundary realignment results in a depth of approximately 12.2 metres at its longest point but narrows to a width of approximately 3.5 metres. The garden area for 2B has a stated area of 60 square metres, approximately 10.7 metres at its widest point narrowing to approximately 6 metres. It also has a depth of approximately 6.2 metres. Amenity space for the proposal is focused at the front of the dwelling. This has a stated area of 60 square metres with a depth of 3.8 metres and overall width of approximately 15.6 metres.
- 8.24 In spatial terms, I acknowledge that the garden areas provided satisfy requirements in the development plan. However, I consider that the narrow and awkward layout characteristics reduce the effective garden areas and are therefore unacceptable. The layout is somewhat contrived with the central boundary between the respective garden areas being realigned in an attempt to provide sufficient space in accordance with the development plan. I do not consider the narrow strips of space along the rear and side boundaries of the proposed dwelling to be of any amenity value or constitute amenity space given their width of 1 metre. I therefore agree with the assessment in the planning report on this issue and the layout indicates overdevelopment of the site.

Amenity Impacts

- 8.24 Section 14.6 requires the protection of amenity in terms of overlooking and loss of privacy, overbearing, and loss of light. I am satisfied that the proposal would not result in unacceptable impacts in relation to overbearing or loss of light on either the existing properties at numbers 2A and 2B or the adjacent property to the northwest at number 6 due to the single storey design of the building and separation distances to respective properties.
- 8.25 However, I am not satisfied that prospective residents of the proposal would benefit from sufficient daylight given the close proximity of the front elevation to the proposed new boundary. Daylight provision for the dwelling is reliant on the main window openings on the front elevation. Whilst other openings are proposed on the gable and rear elevations, these would not receive any meaningful daylight due to their close proximity to the adjacent boundaries. Evidence to conclusively demonstrate otherwise has not been provided by the appellant.
- 8.26 In relation to overlooking and privacy, the garden area of the proposed dwelling is entirely located along its frontage between the front elevation and new rear boundaries of the existing 2 dwellings to the front. Height of this boundary is not stated on the layout plans; however, it is shown on the elevations which indicates a height of approximately 1.8 metres. Whilst intervisibility between respective properties is unlikely to be possible at ground floor level, overlooking would be possible from the first floor of the existing dwellings into the new dwelling and associated garden area, also taking account of the limited separation distances of approximately 12.2 metres to the new boundary and approximately 16 metres to the front elevation of the new dwelling. I therefore consider that the proposal provides insufficient safeguards for future residents of the new dwelling. In addition, the proposed communal side-alley access arrangements along the gable of 2A would impact on amenity for residents of both dwellings and is not a high-quality design layout as discussed above. The proposed parking area layout for the proposal, would not in itself result in any adverse amenity impacts on the existing dwellings, given that it is for a single parking space. It would also not adversely impact on the character of the streetscape given this area is currently largely hardsurfaced and existing boundary treatments are replicated.

f) 14.6.4 Residential Standards

- 8.27 The refusal reason states that the proposal is contrary to section 14.6.4 Residential Standards of the development plan. This broadly relates to space standards for proposed dwellings including storage space to ensure that proposals meet minimum thresholds.

- 8.28 Whilst this is cited in the refusal reason, the planning report states that the floor area is acceptable. The appellant states that the proposal meets requirements set out in guidance.
- 8.29 The plan directs at 14.6.4 that the “minimum size of habitable rooms for houses / apartments / and flats shall conform with appropriate National guidelines / standards in operation at the date of application for planning permission.” Standards are therefore set out in “Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities” (2007). Table 5.1: stipulates space provision and room sizes for typical dwellings. The minimum size standard quoted for a 2-bedroom dwelling is 60 square metres, which is applicable in this case. The floor plans indicate that the dwelling is 71.20 square metres in area. Accordingly, the proposal exceeds minimum requirements and is therefore acceptable.
- 8.30 The supporting plans include annotated dimensions for all rooms. The Guidelines stipulate minimum room dimensions and areas at 5.3.2 “Space Requirements and Room Sizes” with accompanying table 5.1. This requires living rooms to have a minimum width of 3.6 metres for two-bedroom dwellings. In this case the proposal has a combined living and kitchen area 6.045m in width and 5.5m in length and overall area of 33.2sqm. Excluding the kitchen area, the living area has a width of 3.5m. Both bedrooms have a width of 3.35m and length of 4.2m, with storage areas of 2.3 sqm in each room. Gross floor areas (14.07 sqm) exceed the target guidance requirement of 11.4 sqm. Both bedrooms meet minimum width requirements of 2.8m. Guidance also stipulates a minimum storage area of 3 sqm. It does not stipulate where such storage should be located, and accordingly the gross areas provided in the bedrooms of 4.6m meets requirements. The proposed living room width falls slightly below the minimum dimensions in the guidance. However, I consider this is not sufficient to warrant refusal on this basis given all other required dimensions are met. Therefore, I do not consider that permission can be withheld on this basis.

g) Precedent

- 8.31 The Council considers that the proposal if approved would set an unacceptable precedent, whilst the appellant disagrees. On balance I do not consider that the proposal would result in a precedent. The surrounding context largely comprises smaller sites than the appeal site which would, in effect, preclude the nature of development proposed in this appeal. Any similar proposals would therefore require to be considered on their merits.

h) Housing Need for family member;

8.32 The appellant suggests that the proposal could be permitted subject to a personal condition for occupation by a family member. They indicate that this is the purpose of the proposal due to difficulties securing appropriate housing on the open market.

8.33 Whilst technically possible to apply such a condition, the proposal fails to meet a number of policy requirements as set out above. In my view this matter does not outweigh the overriding public interest requirement to ensure acceptable forms of development and proper planning of the area.

i) Access and Other issues;

8.34 The proposal also includes alterations to the existing site frontage and amenity area to facilitate parking of one car within this area. The proposal satisfies parking requirements. In addition, appropriate access and visibility facilities are proposed. The transport section of the Council broadly has no objections and accordingly I consider this aspect acceptable and compliant with policy. Acceptable details could be secured by planning conditions.

8.35 Noise is a consideration due to the proximity off the site to the airport. Both parties consider that suitable mitigation to protect amenity can be secured by planning condition to secure appropriate details. I concur with both parties and there is no evidence to suggest this approach would not achieve the protection of amenity.

9.0 AA Screening

- I have considered the proposed erection of a dwelling and associated works in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- The subject site is located within an urban area and approximately 2.76km to the nearest European Site as discussed at section 5 above.
- The proposed development comprises the erection of a dwelling and associated works as discussed at section 2 above.
- No nature conservation concerns were raised in the planning appeal.

- Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
 - The nature of works and limited scale of the development.
 - The site is not within or adjacent to a protected site or feature, and the location and distance from nearest European site and lack of connections.
- I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

10.1 I recommend that permission for the development be REFUSED.

11.0 Reasons and Considerations

11.1 The subject site is zoned 'RS' Residential under the Fingal Development Plan 2023 – 2029, the objective of which is to 'Provide for residential development and protect and improve residential amenity'. Given the site size, the existing dwellings on site, the proposed dwelling, by reason of its location and positioning is considered to be overdevelopment of the site and would not respect the existing residential setting. It is considered that the proposed development would be substandard and out of character with the established pattern of development in the area and would not provide appropriate amenity for prospective residents. The proposed development would be contrary to Objectives SPQHP35, SPQHO 42, DMSO 31, Section 14.5 Consolidation of the Built Form: Design Parameters, and Section 14.6 Design Criteria for Residential Development of the Fingal Development Plan 2023-2029 and would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

R Taylor
Planning Inspector

2nd April 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-321653-25		
Proposed Development Summary	Construction of a dwelling with all associated site works		
Development Address	2A and 2B Boroimhe Oaks, Swords, Co. Dublin, K67 X9P0 and K67 T1H5		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	✓	Class 10 Infrastructure (b) (i)- Threshold- 500 dwelling units (d) Threshold- Urban Development- involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere Proposal is for 1 dwelling	Proceed to Q3.
No			Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	✓		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	Class 10 Infrastructure (b) (i)- Threshold- 500 dwelling units (d) Threshold- Urban Development- involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere Proposal is for 1 dwelling	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	✓	Screening determination remains as above (Q1 to Q4)	
Yes		Screening Determination required	

Inspector: R Taylor_____

Date: 02/04/2025

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-321653-25
Proposed Development Summary	Construction of a dwelling with all associated site works
Development Address	2A and 2B Boroimhe Oaks, Swords, Co. Dublin, K67 X9P0 and K67 T1H5
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p>Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of</p>	<p>The development is situated in an urban area on previously developed land. The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in</p>

natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	the County Development Plan.	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	N/A
There is a real likelihood of significant effects on the environment.	EIAR required.	N/A

Inspector: R Taylor Date: 2 April 2025

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)