



An
Bord
Pleanála

Inspector's Report ABP-321902-25

Development

Partial demolition and remodelling of the existing bungalow with new vehicular entrance to Rathbeale Road; construction of 1 dormer bungalow with revisions to existing vehicular entrance to Rathbeale Road; construction of 7 two-storey dwellings with individual vehicular entrances to Brackenstown Avenue and all associated site works.

Location

41 Rathbeale Road, Swords, Co. Dublin, K67 D899

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F24A/0608E

Applicant(s)

Peneda Limited

Type of Application

Permission

Planning Authority Decision

Grant permission

Type of Appeal

- (i) First party v condition No.2
- (ii) Third party v Decision

Appellant(s)

- (i) Peneda Limited

	(ii) Therese and Paddy McKittrick
Observer(s)	Maeve and Richard Slattery Patrick Hughes
Date of Site Inspection	20/5/5
Inspector	Ronan Murphy

1.0 Site Location and Description

- 1.1. The appeal site is located at the northwestern corner of the junction of Rathbeale Road and Brackenstown Avenue which is approximately 0.6km to the west of Swords Town Centre.
- 1.2. The character of the area is largely residential comprising of predominantly two storey semi-detached dwellings along Brackenstown Avenue and a mixture of two storey and single storey dwellings along Rathbeale Road. There is a supermarket c. 45m to the north-west of the site, and a cultural centre c. 155m to the east of the site.
- 1.3. The appeal site is a rectangular shaped parcel of land with a stated area of 0.26ha and at present comprises of a bungalow to the north of the site and a long back garden which is currently overgrown.
- 1.4. The subject site is bound by a Brackenstown Avenue to the west (including a number of ESB cabinets), Rathbeale Road to the north, No. 39 Rathbeale Road to the east and 21 Brackenstown Avenue to the south. In Addition to this, there is a protected structure (RPS Ref. 344) which relates to a thatched cottage on the opposite side of Rathbeale Road.

2.0 Proposed Development

- 2.1. The development comprises of the partial demolition (29m²) and remodelling of the existing 4-bedroom bungalow to provide a three-bedroom bungalow with new vehicular access onto Rathbeale Road and the construction of 8 dwellings comprising 1 no. 3 bed dormer bungalow and 7 no two storey dwellings with dormer windows to the front.
- 2.2. The proposed houses would have maximum heights of c. 7.1m to 8.7m. The houses would be finished with a mixture of brick and smooth render.
- 2.3. No public open space is proposed as part of the proposed development.
- 2.4. The following key parameters are noted:

Site area	0.266ha
Residential Units	8
Building Height	7.1m-8.7m
Density	42 units per hectare
Aspect	East-west
Public open space	Nil
Access	Individual access for each home onto Brackenstown Avenue or Rathbeale Road
Car and cycle parking	8 car parking spaces (one per unit)

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 22nd January 2025 the planning authority decided to grant planning permission, subject to 21 No. conditions. The conditions are generally standard except for condition No.2 which requires that unit No.8 be omitted to allow for a future access to backlands to the rear of the site and Condition No. 8 which requires that all bathroom ensuite windows shall be fitted and permanently retained with obscure glazing.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 There are two planning reports on file. The initial area planner's report is dated 29th August 2025. The initial area planners report states that the principle of residential development within the 'RS' zone is acceptable in principle, subject to normal planning considerations. In addition to this, the area planner's report notes that the density of

the proposed development is appropriate having regard to the site's location in close proximity to Swords Town Centre and public transport infrastructure.

The initial report recommended that further information be requested related to the following items:

1. Clarify the ownership of the existing grass verge and footpath.
2. Revised layout plans and elevation drawings showing a shared entrance between the existing dwelling and Unit 1.
3. Clarification in relation to the chimney on the existing dwelling.
4. Clarify that the proposed layout can facilitate the delivery of future infill developments to the east of the proposal, this might include the redesign of Unit 8 which might comprise the provision of a terraced dwelling.
5. Clarify that the proposed development would not jeopardise the future delivery of upgraded cycle and pedestrian facilities along Rathbeale Road.
6. Tree survey including Arbocultural Impact Assessment, Tree constraints plan, Tree Protection plan and Arbocultural Method statement.
7. A revised landscape plan showing the substitution of Cherry Laurel Novita with native hedge planting species.
8. Site survey for protected and invasive flora and fauna on the site.
9. Updated landscape plan to place greater emphasis on the retention of existing and mature specimen trees.

3.2.2. Other Technical Reports

- **Conservation Officer:** Report dated 16/7/24 outlining no objection but comments in relation to discrepancies on the drawings in relation to the chimney of the existing dwelling on the land. The design of the new unit on Rathbeale Road should be more sympathetic to the character and scale of the existing bungalow.
- **Parks and Green Infrastructure:** Report dated 17/7/24 seeking further information relating to the need for an Arbocultural Impact Assessment, tree constraints plan, tree protection plan and Arbocultural Method Statement and

a revised landscape plan showing the substitution of Cherry Laurel Novita with native hedge planting species.

- **Housing Department:** Report dated 17/7/24 stating that the applicant has lodged a Part V proposal which was deemed acceptable.
- **Water Services Section:** Report dated 24/7/24 outlining no objection, subject to conditions.
- **Heritage Officer:** Report dated 29/7/24 outlining no objection but that the site is located in proximity to the zone of Notification for the Historic Town of Swords (DUO11-035) that pre-development test excavation to determine the presence (or absence), nature and extent of archaeological remains should be undertaken.
- **Public Lighting Section:** Report dated 30/7/24 outlining that no public lighting details were submitted with the application and that a lighting design is required.
- **Environment, Climate Action, Active Travel and Sports Department:** Report dated 31/7/24 outlining no objection, subject to condition.
- **Air and Noise Unit:** Report dated 7/8/24. No objection, subject to conditions.
- **Ecologist Department:** Report dated 9/8/24 requesting further information relating to a site survey of the site for invasive flora and fauna and an updated landscape plan to place greater emphasis on the retention of existing and mature specimens of trees and shrubs.
- **Transportation Planning Section:** Report dated 16/8/24 seeking further information relating to the need for the applicant to demonstrate that the proposed development would not jeopardise the future delivery of upgraded cycle and pedestrian facilities along Rathbeale Road and to amend the overall site layout plan to provide a 3m verge offset.

3.2.2 A Further Information response was received on 18/12/24. The Further Information response included the following:

- A cover letter from AWL Architects Workshop Limited.
- Revised drawings (FI-1-0-00, FI-0-2-02, AND FFI 1-2-00).

- Letter of consent from Fingal County Council with respect to the grass verge along the roadside boundary.
- Updated plans to show future road access to the neighbouring property to the rear by repositioning units 6,7 and 8 to provide room for a 3.0m accessway to the southern boundary.
- Drawing No. FI-0-2-03 showing a potential 3.0m widening to facilitate future cycle and pedestrian facilities along Rathbeale Road.
- Arborist report.
- A revised landscape plan.
- Ecologist report.

3.2.3 The second planning report relating to the response to Further Information is dated 16/1/25. The second planners report considered that the applicant's response to the further information was sufficient and recommended that planning permission be granted, subject to conditions.

3.2.4 Other Technical Reports relating to Further Information

Parks and Green Infrastructure: Report dated 10/1/25 outlining no objections, subject to conditions.

Conservation: Report dated 10/1/25 outlining applicants' response to further information is acceptable.

Transportation Planning Section: Report dated 13/1/25 outlining no objection, subject to conditions.

3.3. Prescribed Bodies

Transport Infrastructure Ireland: Response dated 22/7/24 outlining no objection.

Uisce Eireann: Response dated 25/7/24 outlining no objection, subject to conditions.

Dublin Airport Authority: Response dated 12/8/24 outlining no comments other than that the planning authority is advised to consult with IAA and AirNav Ireland.

Health and Safety Authority: Response dated 8/8/24 no objection.

National Transport Authority: No response.

Irish Aviation Authority: No response.

Area Chief EHO: No response.

Local Principle PEHO: No response.

Inland Fisheries Ireland: No response.

4.0 Planning History

Subject site

- 4.1 **Reg. Ref. F23A/0064.** Application for development of side and rear garden of 41 Rathbeale Road, Swords, Co. Dublin, K67 D899 (a detached 4 no. bedroom bungalow dwelling) on a 0.21 Hectare site with the existing dwelling to be remodelled from 4 bedrooms to 3 bedrooms with partial demolition of existing footprint with new driveway with proposed new development of 8 no. 2 storey residential dwellings (1 no. 4 bed detached house, 2 no. 4-bedroom semi- detached houses, 4 no. 3-bedroom semi-detached houses with 4 no. new driveway entrances fronting on to Brackenstown Avenue with 1 no. 4 bedroom detached house with widening of existing driveway to Rathbeale Road with associated site works and landscaping. Permission refused for the following reasons:

- 1. The proposed subdivision of the site and provision of an infill dwelling to the side garden area of No. 41 Rathbeale Road by virtue of its scale and proportions (including height) would result in a cramped development that would be visually incongruous within the streetscape and wholly out of character with the existing pattern of development. The proposed development would result in the overdevelopment of the site which would set an undesirable precedent for other similar developments within the area, which in itself and cumulatively would detract from the residential amenities of the area, and be contrary to the RS zoning objective pertaining to the subject site and Policies SPQH038, SPQH039, SPQH040, SPQH042, SPQH043, DMS019, and Objectives DMS031 and DMS032 of the Fingal Development Plan 2023-2029*

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

- 2. The proposed separation distance between the proposed infill dwelling and the adjacent dwelling at no. 41 Rathbeale Road is substandard and the development in its proposed form would materially contravene Objective DMS026 of the Fingal Development Plan 2023-2029 which seeks to 'Ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units'.*
- 3. The proposed development along Brackenstown Avenue, by reason of its siting, height, scale, and design (including prominent roof form/front dormers) would result in a pattern of development that would be visually incongruous within the streetscape and out of character with the existing pattern of development. The development of 8 no. houses as proposed on the subject site if permitted would result in overdevelopment which would set an undesirable precedent for other infill/side garden site developments within the area. The development in itself and cumulatively would detract from the residential amenities of the area, and for that reason would contravene materially the RS zoning objective pertaining to the subject site which seeks to protect and improve residential amenity. The proposal would also contravene materially Policies SPQH038, SPQH039, SPQH040, SPQH042, SPQH043, and Objectives DMS019, DMS031 and DMS032 of the Fingal Development Plan 2023-2029. The development as proposed therefore would be contrary to the proper planning and sustainable development of the area.*
- 4. The proposed development along Brackenstown Avenue, by reason of its height, orientation and proximity to adjacent dwellings and neighbouring rear garden areas is considered to be overbearing, visually obtrusive and would negatively impact on the visual and residential amenity of neighbouring dwellings by way of overshadowing and loss of light. As such, the proposal would contravene materially the residential zoning objective of the subject site which seeks to protect and improve residential amenity and would contravene materially Objectives DMS022, DMS071 and Table 14.4 of the Fingal*

Development Plan 2023-2029. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

5. *Having regard to the inadequate provision of living area, storage and private amenity space, it is considered that the proposed development would result in an unsatisfactory standard of residential amenity for future occupants of the residential units/dwellings, contrary to the provisions of Policies SPQH35, SPQHP36 and Objectives DMS019, DMS027 and DMS032 of the Fingal Development Plan 2023-2029, the DEHLG 'Quality Housing for Sustainable Communities - Best Practice Guidelines 2007' and to the proper planning and sustainable development of the area.*

6. *The proposed development does not comply with the Fingal County Council Development Plan 2023-2029 as it relates to the provision of parking and surface water drainage and would therefore be contrary to the proper planning and sustainable development of the area.*

4.2 The development lodged with the planning authority has a similar layout to that previously refused. The main difference in design terms is the following:

- Unit No.1 is now proposed to be a bungalow with a ridge height of c. 7.1m and is separated from the existing dwelling on the land by 2.3m.

I make the Board aware that since the planning authority made the decision with respect to Reg. Ref. F23A/0064 the national planning context has changed with the introduction of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024 and by the revised National Planning Framework in April 2025. I am satisfied that the proposal currently being considered, while similar to a previously refused application can be considered having regard to the updated national planning context.

Relevant planning history in the surrounding area

31 and 33 Rathbeale Road

Reg. Ref. F14A/0502. Application for the demolition of 1 no. habitable dwelling at no. 31 Rathbeale Road and the construction of 12 no. new two storey dwellings to the rear

of no. 33 Rathbeale Road and on the site of no. 31 Rathbeale Road. The development will consist of 6 no. three bedroom dwellings (2 no. detached and 4 no. semi-detached) and 6 no. two bedroom semi-detached dwellings. All with 2 no. car parking spaces to the front of each dwelling. The development will include the provision of a new vehicular access road which will link the proposed development with the Rathbeale Road. New footpaths will be provided to the front of each house and will link to the existing footpath on the Rathbeale Road. Permission is sought for all associated landscaping, site services and external works including the provision of landscaped open recreational space to the south. Permission granted, subject to conditions.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Fingal County Development Plan 2023-2029 is the operational plan for the area. The appeal site is zoned RS 'Residential' with the associated land use objective to provide for residential development and to protect and improve residential amenity. The vision for the RS zone is to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.

5.1.2 In addition to this, the site is located within the Dublin Airport Noise Zone D. There is a Protected Structure on the opposite side of Rathbeale Road (RPS Ref. 344) which relates to a thatched cottage on Rathbeale Road, Commons West, Swords, which is a later 18th or early 19th century three bay single storey thatched cottage.

5.1.3 There is general policy support for the concept of residential development. Policies of relevance to this site relate to infill development. The following policies are the most pertinent to the proposed development.

Policy SPQHP35 which seeks to promote a high quality of design in new residential developments at appropriate densities.

Policy SPQHP36 which seeks to ensure that all residential development has access to high quality private open space.

Policy SPQHP38 which seeks to promote residential consolidation through the consolidation and rejuvenation of infill sites.

Policy SPQH038 which seeks to promote residential development at sustainable densities throughout Fingal.

Policy SPQHO40 which seeks to favourably consider proposal for the development of corner or wide garden sites.

Policy SPQHO41 which seeks to reduce the underuse of existing building stock.

Objective SPQHO39 which seeks to ensure that new infill development respects the height and massing of existing residential units, and that infill development retains the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping and fencing or railings.

Objective SPQHO42 which seeks to encourage and promote the development of underutilised infill sites in existing residential areas.

Objective SPQHO43 which seeks to promote the use of contemporary and innovative design solutions, subject to design respecting the character and architectural heritage of the area.

Policy SPQH044 which seeks to support the retention and retrofit of structurally sound habitable dwellings.

Table 8.1 Aircraft Noise Zones

Objective DAO11 which seeks to Strictly control inappropriate development and require noise insulation where appropriate in accordance with Table 8.1.

Table 14.4 relating to infill development.

Objective DMSO19 which requires that all applications for residential development comply with Section 28 guidelines.

Section 14.6.6.4 which requires that developments address overlooking and overberance.

Section 14.8.1 which requires all room areas comply with Section 28 Guidelines.

Objective DMSO26 which seeks to ensure a separation distance of at least 2.3m is provided between side walls of detached dwellings.

Objective DMSO27 relating to the area of private open space.

Objective DMS031 which seeks to ensure that new infill development respects the height and massing of existing residential units, and that infill development retains the physical character of the area.

Objective DMSO32 relating to criteria against which infill development will be assessed.

Section 14.13.3.3 relating to private open space.

Objective DMSO113 which requires the provision of a traffic and transport assessment where a development is likely to have an impact on the surrounding road network.

Objective DMSO116 which seeks appropriate building setbacks along the road network to facilitate future road improvements.

Section 14.17.7 which relates to car parking.

Section 14.21.1 which relates to the reuse of existing buildings.

Objective DMSO256 which supports the retrofit and reuse of existing buildings.

5.2 Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031

5.2.1 It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.

5.3 National Planning Framework (2040)-First Revision April 2025

5.3.1 The National Planning Framework - Project Ireland 2040-updated in April 2025 sets out the focus on pursuing a compact growth policy at national, regional, and local level. From an urban perspective the aim is to deliver a greater proportion of residential development within existing built-up areas; to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards

5.4 Section 28 Ministerial Guidelines

5.4.1 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 are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024. These guidelines seek to support sustainable residential development and the creation of compact settlements for urban and rural areas.
- Quality Housing for Sustainable Communities: Design Guidelines. The purpose of these Guidelines is to assist in delivering homes, in sustainable communities that are socially inclusive.
- Architectural Heritage Guidelines for Planning Authorities, 2011. which provide a guide on the protection of architectural heritage.

5.5 Other Relevant Guidance

- Design Manual for Urban Roads and Streets, 2019. The manual sets out design guidance for constructing new and reconfigured roads and streets.

5.2. Natural Heritage Designations

5.2.1 There are no designated sites in the immediate vicinity of the appeal site. The closest sites are the Malahide Estuary SAC which is 1.4km to the northeast and the Malahide Estuary SPA which is located c. 1.7km to the northeast of the site. In addition to this the Malahide Estuary pNHA is located c.1.4km to the northeast of the site.

5.3. EIA Screening

5.3.1 The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 First and third-party appeals have been lodged in this instance. The third-party appeal against the Planning Authority's decision has been lodged by Therese and Paddy McKittrick, 39 Rathbeale Road. The first-party appeal relates to condition no. 2 of the Planning Authority's decision only.

6.1.2 The grounds of the **third-party appeal** can be summarised as follows:

- Confusion with the statutory notices on site lead to a lack of objections from residents / Residents are being treated badly, lack of communication.
- The proposed development does not meet the criteria of the 'RS' zone.
- The previous application on the site was refused permission and the reasons for refusal still stand.
- All eastern facing Velux windows and stairwell windows of Units 2-8 will cause overlooking.
- The proposed development would be overdevelopment of the site due to the scale and proximity to the neighbouring property and would seriously injure the visual and residential amenities of the area and would set an undesirable precedent for similar developments.
- The proposal would lead to property devaluation.
- Traffic congestion / unsafe construction traffic / car parking inadequate.
- Western boundary wall should remain undamaged / the proposed western boundary wall should be erected first to maintain security and privacy.
- The site location plan submitted with the application is old does not take into account extensions which have been built on neighbouring properties.
- Concerns that Fingal County Council provided a letter of consent to alterations to the grass verge of No.41 Rathbeale Road.

- The development should fall in line with the existing development of Rathbeale Grove to the east. Future access could be maintained if an access road was designed from Brackenstown Avenue to link up with the cul-de-sac.
- Removal of trees and hedges would have biodiversity impacts.

6.1.3 The appeal submission includes a number of appendices.

6.2 First Party Appeal

6.2.1 The grounds of the **first party appeal** can be summarised as follows:

- The appeal relates to a singular condition (Condition 2) which seeks the removal of 1 unit (Unit No.8) to facilitate a carriageway and footpath to provide future access from Brackenstown Avenue to back lands for potential infill development.
- In responding to Condition No.2, the appeal submission includes an updated layout plan for the consideration of the Board. The amendments to the scheme include the following:
 - Shared side access between units 5 & 6 to gain width for the 5.8m shared surface for potential future access.
 - Unit 7 will have its own side access.
 - Unit 8 will be a two-bedroom detached house in lieu of a 3-bedroom house due to reduction in the garden area.
 - All the dwellings proposed have been slightly realigned to take account of the increased set back.
 - The 3m set back of the front wall of the proposed development from Rathbeale Road is not shown.
- At further information stage a better option for providing access by extending the road at Rathbeale Grove to the west was presented to the planning authority.
- No need to provide for future development to houses on Rathbeale Road to be accessed from Brackenstown Avenue and no need to include a condition to omit a dwelling.

- No specific width for a proposed access was provided in the further information request or in the area planners report. Even if access were required, this could have been required by way of condition.
- Condition 2 unnecessary and unhelpful in facilitating optimum infill regeneration of Rathbeale Road.
- It is requested that planning permission be granted for the development as initially proposed OR if the Board considers that access from Brackenstown Road is required, it is requested that permission be granted for the revised layout included in this appeal.
- All other conditions are accepted.

6.3 Third Party Response to first party appeal

6.3.1 The third parties (Therese and Paddy McKittrick) responded to the first party appeal which can be summarised as follows:

- The refusal of the developer to omit Unit 8 is in complete opposition to the permission granted by Fingal County Council.
- Access from Brackenstown Avenue to the rear of the dwellings on Rathbeale Road would be more feasible.
- The access suggested by the first party would lead to more overdevelopment of the area.
- Developer using out of date site location maps which do not show more recent extensions to No's 37 and 39 Rathbeale Road.
- The contention that the proposed units 6,7 and 8 cannot be terraced as they would fall below private open space standards shows overdevelopment of the site.

6.3.2 The third-party response includes a copy of objection to the initial application to Fingal County Council.

6.4 First party response to third party appeal

6.4.1 The first party submitted a response to the third-party appeal on 14th March 2025 which can be summarised as follows:

- The zoning provides for residential development, not just the protection and improvement of existing residential amenity.
- National and regional policy promote enlarged urban settlements with more compact neighbourhoods and better use of underutilised land. Swords is a key town in the Metropolitan area, targeted to grow from c.54,000 to 60,000 by 2029.
- The entire development along the boundary with No.39 will be confined within the development boundary and within the ownership of the applicant. There is no intention to interfere with the property of neighbours. The applicants have no objection to the specification of the boundary details contained in the grounds of appeal.
- Roof lights are contained within the roof above eye level and do not give rise to overlooking. All bathroom and landing windows will be fitted with obscure glazing.
- Standard OS mapping has been provided to indicate the location of the site and its outline.
- The grass verge is in the ownership of Fingal County Council and the application was accompanied by a letter of consent.
- The best pattern for redevelopment to the rear of the adjoining properties is to extend the pattern already established in Rathbeale Grove rather than extending access from Brackenstown Avenue.
- The site is well served by centrality, public transport, and connectivity. Access, car parking and buildability measures are adequate in this context.
- No species of conservation status were identified on site.

6.5 Planning Authority Response

6.5.1 Letter dated 18/3/25 which can be summarised as follows:

- The application was assessed against the policies and objectives of the Fingal County Development Plan 2023-2029 and to existing government policy and guidelines.

- The Planning Authority remain of the opinion that having regard to the nature and scale of the proposed development, that subject to conditions (including the omission of Unit No.8) the proposed development would not detract from the amenity of the surrounding area and would be in accordance with relevant policy and the provisions of the Fingal County Development Plan 2023-2029 and would be in accordance with the proper planning and sustainable development of the area.
- The Board is requested to uphold the decision of the planning authority and to include conditions relating to financial contribution is requested.

6.6 Observations

6.6.1 Two third-party observations against the Planning Authority's decision have been lodged by Patrick Hughes, 42 Rathbeale Road and Maeve and Richard Slattery 53A Rathbeale Road which can be summarised as follows:

- Previous site notices not taken down for 15 months, this did not allow the public to know there was a new proposed development. A similar application was refused planning permission under F23A/0063.
- 3 one storey bungalows would be a more appropriate development on the site. overdevelopment by its height, density, and scale.
- The proposed development would cause overlooking from 3rd floor windows.
- The proposed development would be overbearing and would constitute overdevelopment of the site. The gross floor area of the site would go from 140.00m² to 10,560m² which is an enormous difference and excessive.
- The design of the proposed development is not in line with the visual amenity of the area.
- General environment will not be protected, less green space, more concrete, more vehicles, worse air quality, increasing noise.
- There are no other front facing 3rd floor full dormer windows in the nearby vicinity.

- Proposals to remove garden area and trees would reduce air quality and environment.
- Shortfall of open space provided. The proper amount of land should be required as opposed to a financial contribution.
- Concerns relating to traffic congestion as Brackenstown Avenue is used by all motorists to avoid main street in Swords.
- Traffic safety concerns as No.41 Rathbeale Road was a family home with only family cars existing / entering the site, the increase in number of cars at a dangerous junction will pose a safety risk to pedestrians.
- No assessment of the lights at Rathbeale Road / Brackenstown Avenue / inadequate parking provision.
- Construction phase would be noisy.
- The proposal with its linear concrete structure would cause an increase in the acoustics of aircraft noise from the North Runway Dublin Airport. This should have been addressed in the planning permission. This would be a negative impact on health and cause devaluation of property.
- Impact of the proposal on the protected structure and historic laneways (The Green, Rathbeale Road) to the north of the site.
- Removal of green strip and shrubs, plants trees and an attractive sign at the entrance to Brackenstown Avenue which have been tended on a regular basis by members of the resident's association will lead to a loss of an attractive and useful green area and wildlife will disappear.

6.7 Further Responses

6.7.1 No further responses on file.

7. Assessment

7.1 Having examined the appeal details and all other documentation on file, including submissions / observations, the report of the local authority and inspected the site. I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Layout / Density/ Design
- Residential Amenity of surrounding properties
- Traffic / Car parking
- Biodiversity
- Airport Noise
- Flooding
- Omission of Unit 8
- Other matters
- Appropriate Assessment

7.2 I note that the first party has submitted a layout on appeal. I will consider this under the heading of omission of unit 8 below.

7.3 Principle of development

7.3.1 The appeal site is zoned RS 'Residential' with the associated land use objective '*to provide for residential development and to protect and improve residential amenity.*'

The vision for the RS zone is to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.

7.3.2 I note the concerns of third parties that the proposed development would not meet the criteria of the 'RS' zone, however, residential is permitted in principle in this zone and I am satisfied that the proposed uses are in accordance with the sites zoning objective and that the proposed development is acceptable in principle. Concerns relating to residential amenity will be discussed below.

7.4 Layout /Density / Design

7.5.1 The proposed development comprises of 8 no. dwellings comprising of 1 No. single storey dwelling fronting onto Rathbeale Road and 7 No. two storey dwellings with dormer window to the front set out in a linear fashion along Brackenstown Avenue.

7.5.2 In broad terms, I am satisfied that the overall design of the proposed development successfully integrates with the surrounding streetscape. Unit No.1 maintains the

established building line along Rathbeale Road. Although, the proposed one-storey bungalow would be c. 1m higher than the existing dwelling on the land, I am satisfied that this would not be visually incongruous having regard to the mixture of dwelling types and heights in the surrounding area.

- 7.5.3 Units 2-8 along Brackenstown Avenue include a dormer element within the front roof profile. In my opinion, the dormers to the front are subservient to main roof profile and do not read as a third floor. While this arrangement is rare in the surrounding area (apart from an example of similar design at No.12 Brackenstown Avenue) and there is a degree of uniformity of roof profiles within the wider Brackenstown Avenue area, this should not dictate the treatment of all interventions at roof level. I am satisfied that the design of Units 2-8 would not visually detract from the residential amenity of the area.
- 7.5.4 The density of the proposed development would be 42 units per hectare, and I am satisfied that in terms of units per hectare that the proposal would be acceptable having regard to national, regional, and local policy which promote greater density on serviced land within proximity to towns such as Swords which is identified as a key town in the Metropolitan area and frequent public transport. I note the third-party concerns relating to the floor area of the proposed development being enormous at 10,560.00m². I acknowledge that this figure is stated in the initial application form submitted with the application. However, I have regard to the Housing Quality Assessment provided with the application which provides a total floor area (including the existing dwelling on the land) of 1,176.7m². I am satisfied that this floor area is acceptable in an urban area.
- 7.5.5 In assessing the proposed development including the design statement submitted with the initial application, I note that all units exceed the minimum overall floor area requirements as set out in Quality Housing for Sustainable Communities: Design Guidelines except. This is considered acceptable.
- 7.5.6 Private open space to serve each of the dwellings is proposed by way of back gardens. The relevant areas range between c. 52m² and 79m². While I note that some of the private open space area would not comply with Objective DMSO27 of *the Fingal County Development Plan 2022-2029*, I am satisfied that the back gardens would comply with the minimum area standards set out in SPPR2 of the Sustainable

7.5.7 Concerns are also raised about the lack of provision of public open space for the proposed development. Given the size of the proposed development an area of c.0.07ha of public open space would be required. Policy and Objective 5.1 of the Residential Development and Compact Settlements Guidelines for Planning Authorities 2024 notes that in some circumstances a planning authority might decide to set aside (in part or whole) the public open space requirement arising under the development plan. This can occur in cases where the planning authority considers it unfeasible, due to site constraints or other factors, to locate all of the open space on site. In my opinion, this area of public open space would be too small to provide any viable public amenity and, in this case, a financial contribution in lieu of the provision of public open space would be acceptable. This would comply with Policy and Objective 5.1 of the Residential Development and Compact Settlements Guidelines for Planning Authorities 2024.

7.5.8 I note the concerns of the third-party relating to the overdevelopment of the site; however, I am satisfied that the density, layout, and design of the proposed development comply with local and national policy and as such is acceptable.

7.6 Residential Amenity of surrounding properties

7.6.1 Concerns are raised that the proposed development would have an adverse impact on the residential amenity of the existing developments to the east of the site and to the west of the site (on the opposite side of Rathbeale Road) by way of overlooking. Concerns are also raised that the proposed development would comprise of overdevelopment of the site due to the scale and proximity to the neighbouring property and would seriously injure visual and residential amenities of the area.

7.6.2 I note that windows are proposed on the rear (eastern) elevation of the proposed dwellings. The rear elevations of dwellings No.2 to 8 are set back between 4.3m and 6.5m from the eastern boundary of the land.

7.6.3 Objective DMSO19 of the *Fingal County Development Plan 2023-2029* requires that all applications for residential development comply with Section 28 guidelines. SPPI 1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024 states that separation distances below 16 metres may be

considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.

- 7.6.3 Given the layout of the site and the abutting sites, the proposed dwellings would not directly oppose any other dwellings. Given this, the set back of the proposed units from the eastern boundary would be acceptable considering the requirements of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024.
- 7.6.4 Notwithstanding this, the rear elevation of the proposed dwellings No's 2-8 would face towards the private open space of No's 39 and 37 Rathbeale Road and consideration must be given to appropriate protection of such. There are bedroom windows at first floor level and at roof level of the proposed units. The elevation drawings submitted with the application show that the bedroom windows are split into two components. The lower part of the windows would be obscured by opaque glazing while the upper part of the windows would be clear glazing. Therefore, in effect, these windows would be high-level windows which would mitigate potential overlooking of abutting properties to an acceptable degree, while not having a detrimental impact on the residential amenity of future occupants of the dwelling. In addition to this, there are windows serving the stairwells. The first party response to the third-party appeals states that all landing windows will be fitted with obscure or frosted non-opening glazing. I am satisfied that these windows would not cause any undue overlooking. The windows at roof level are rooflights and would not face towards abutting properties.
- 7.6.4 In addition to this, I note that concerns of the observers that the proposed development would cause overlooking of the dwelling on the opposite side of Brackenstown Avenue. From an inspection of the plans submitted with the application I note that side elevation of Unit No.1 faces towards the dwelling on the opposite side of Brackenstown Avenue. There is a window in the west facing elevation, but this is a high-level window at ground floor level and would not cause any overlooking of the property on the opposite side of Brackenstown Avenue. In addition to this, Unit 2 would face towards the property on the opposite side of Brackenstown Avenue. While I note that there are a number of windows facing this property, Unit 2 would be set back c.21m from the

boundary with this property. I am therefore satisfied that the proposed development would not lead to undue overlooking of abutting properties and would comply with SPPR1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024.

7.6.5 As regards residential amenity impacts (overshadowing and overbearing impacts), I am satisfied that the proposed dwellings would not have an undue impact on surrounding properties to the east. In coming to this conclusion, I have had regard to the orientation of the site, height of the proposed units and separation distances from the rear boundary of the land. While I note that there is a potential for a reduction in light to the rear gardens of No's 37 and 39 Rathbeale Road, this would be limited to late afternoon / early evening and would be relatively minor having regard to the separation distances and height of the proposed development. I am therefore satisfied that the proposed development would not constitute overbearing development.

7.7 Traffic / Car Parking

7.7.1 1 car parking space per dwelling is proposed as part of this development. Concerns are raised that the car parking proposed as part of this development is inadequate and would lead to overspill parking throughout the surrounding street network.

7.7.2 In assessing the application, the Transport Officer of Fingal County Council notes that the proposed development is within Zone 1 of the parking standards, having regard to its proximity to a proposed Metro station (1.6km). Therefore, a maximum car parking standard of 1 space per dwelling is required.

7.7.3 I would agree with the Transport Officer in this respect, and I note that Table 14.19 states that Zone 1 relates to "*developments within 800m of Bus Connects spine route, or 1600m of an existing or planned Luas/Dart/Metro Rail station or within an area covered by a Section 49 scheme, or in lands zoned Major Town Centre.*" In addition to this, the appeal site is within walking distance of Swords Town Centre and there are bus stops on Rathbeale Road.

7.7.4 While I acknowledge the concerns of the third parties, given the accessible urban location of the appeal site, I am satisfied that the proposed development complies with the parking standards set out in the *Fingal County Development Plan 2023-2029*.

- 7.7.5 I note the appeal concerns regarding overspill parking as a result of the proposed development and that such overspill parking could reduce the capacity of the road to a single lane. While I acknowledge the concerns of the third parties, I am satisfied that in the event that overspill car parking becomes problematic; this could potentially be managed by the introduction of restrictive measures (such as double yellow lines) along Brackenstown Avenue and the surrounding road network by the local authority.
- 7.7.6 Concerns are also raised that the proposal development would add to traffic congestion in the area. The proposal seeks to open 7 new vehicular accesses onto Brackenstown Avenue and would alter the existing access onto Rathbeale Road. In my opinion, the additional traffic movements which would arise on foot of this small-scale, infill residential scheme would have no significant impact on the operation of the existing road network. I note that the Transportation Planning Division of Fingal County Council had no objection to the proposed development subject to conditions. The application material includes a Road Safety Audit, which identified a number of design improvements to the scheme which would enhance the safety of the development. Having considered all of the foregoing, I am satisfied that the proposed development would not cause or lead to traffic congestion on the surrounding road network.
- 7.7.7 Concerns are also set out with respect to construction traffic associated with the proposed development. A Preliminary Construction Management Plan was included with the application material. It is proposed to use the existing entrance from Rathbeale Road for site traffic. While it is noted that the just in time method would be used and that in some cases a number of trucks would be required at the same time, it is noted that all loading and unloading would be undertaken on site. I note that the Transportation Officer did not highlight any concerns with respect to construction traffic. In any case, a condition can be recommended for the applicant provide a detailed construction traffic management plan which is to be agreed in writing with the planning authority prior to commencement of development.
- 7.7.8 I note that the Transportation Section of Fingal County Council requested the applicant to demonstrate that the proposed development would not jeopardise the future delivery of upgraded cycle and pedestrian facilities along Rathbeale Road. The applicant's response to the further information request demonstrated a 3.m verge offset from the front boundary and this was considered to be acceptable by the Transportation Planning Section. Notwithstanding this, this setback does not appear

on the drawing submitted as part of the first party appeal response. In my opinion, this set back should be included, this matter could be dealt with by way of condition, should the Board be of a mind to grant planning permission.

7.8 Biodiversity

- 7.8.1 Concerns are raised that proposals to remove garden area and trees would reduce air quality and would impact on the biodiversity / environment in the area. In their initial assessment, the Fingal ecologist outlined concerns with respect to a significant net biodiversity loss and potential impacts on bats / bird and hedgehogs.
- 7.8.2 The proposed development seeks to remove the bulk of trees and vegetation from the site. The only exception is the retention of a Birch tree on the within the grass verge along Brackenstown Avenue.
- 7.8.3 In response to a further information request the applicants provided a report from Scott Cawley. A bat survey found no evidence of bats emerging from any buildings or trees on the site. Several species were observed flying over the site including common pipistrelle (*Pipistrellus pipistrellus*), soprano pipistrelle (*Pipistrellus pygmaeus*) and Leisler's bat (*Nyctalus leisleri*). The survey showed a low level of bat activity and bats flying over were seen as individuals rather than groups. Given this information a bat derogation license would not be required for the removal of trees.
- 7.8.4 No flora listed under the Flora Protection Order, 2022 were recorded on site. In addition to this, no evidence was recorded of any protected mammals or birds / watering birds on site.
- 7.8.5 The further information response also included an Arbocultural Assessment of the site prepared by Arborist Associated Limited. This report notes that all the vegetation to be removed are of low quality.
- 7.8.6 An updated landscape plan was also provided in the further information response. The updated landscape plan shows all native planting.
- 7.8.7 While I acknowledge the concerns of the third parties, I am satisfied that there is no evidence of bat roosts on the land, no protected flora and fauna and that the vegetation to be removed is not of high quality. Further to this, the landscape plan provides native planting, bird boxes and a hedgehog dome. I am satisfied that the proposed development is acceptable from a biodiversity aspect.

7.9 Airport Noise

- 7.9.1 Concerns are raised that the proposal with its linear concrete structure would cause an increase in the acoustics of aircraft noise from the North Runway Dublin Airport. The third parties consider that this should have been addressed in the planning permission and that the proposal would be a negative impact on health and cause devaluation of property.
- 7.9.2 The appeal site is located within the Dublin Airport Noise Zone D. Table 8.1 of the *Fingal County Development Plan 2023-2029* sets out Aircraft Noise Zones. The objective of Noise Zone D states that *all noise sensitive development within this zone is likely to be acceptable from a noise perspective. An associated application would not normally be refused on noise grounds, however where the development is residential-led and comprises non-residential noise sensitive uses, or comprises 50 residential units or more, it may be necessary for the applicant to demonstrate that a good acoustic design has been followed.*
- 7.9.3 I acknowledge the concerns of the third parties; however, the proposed development is significantly below the threshold for any acoustic concern. I am therefore satisfied that the proposed development is acceptable regarding noise from the airport.

7.10 Flooding

- 7.10.1 The application material includes a Flood Risk Assessment prepared by ORS which shows that the appeal site is located within Flood Zone C. However, as the proposed development is residential in character a Justification Test was carried out. The proposed development passed the Justification Test.
- 7.10.2 I am satisfied that the proposed development is acceptable from a flood risk perspective.

7.11 Omission of unit 8

- 7.11.1 The first party appeal relates to condition no.2 which seeks the removal of 1 unit (Unit No.8) to facilitate a carriageway and footpath to provide future access from Brackenstown Avenue to backlands to the east of the site for potential infill development in the future. As outlined in Section 6.2.1 above, the first party appeal includes an updated layout plan which shows an altered layout to provide a 5.8m

shared surface to the south of Unit 8 which is to provide for potential future access to the lands to the east of the site.

7.11.2 The first party's central argument is that there is no need to omit a unit for the proposed development as it was demonstrated at further information stage that a better option for developing the land lands to the east could be by extending Rathbeale Grove across the rear curtilages of No's 35, 37 and 39 Rathbeale Road. The applicants argued that this arrangement would provide for an extension of the established pattern of development within Rathbeale Grove.

7.11.3 Third party concerns with respect to this access would lead to more overdevelopment of the area.

7.11.4 The Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities 2024 seeks *inter alia* that new developments should, as appropriate, include a street network that creates a permeable and legible urban environment and optimises movement for sustainable modes (walking, cycling and public transport) and is easy to navigate.

7.11.5 While I acknowledge the area planners and the third party's concerns, I would agree with the first party that the most logical way to provide for future access to the land to the east of the site would be to extend Rathbeale Grove in a westward direction. The road layout has been designed to facilitate this. In addition to this, traffic associated with any development of these land would access the local road network by way of a formal junction between Rathbeale Grove and Rathbeale Road, which is a more preferable outcome.

7.11.6 The layout suggested by the first party at further information stage would allow for the established pattern of Rathbeale Grove to be extended in a coherent and sustainable manner. It should be noted that any such future development of these lands would be subject to a full detailed design process in agreement with all landowners.

7.11.7 Having considered the above, I consider that condition 2 is unnecessary and I recommend that the layout of the development as originally proposed is the better outcome for the pattern of development in the area, should the Board be of a mind to grant planning permission.

7.12 Other Matters

Protected structure

7.12.1 Third parties outline concerns in relation to the impact of the proposed development on a protected structure to the north of the site. The initial report of the conservation officer outlined no objection to the proposed development.

7.12.2 I note that there is a protected structure (thatched cottage, RPS No. 344) on the opposite side of Rathbeale Road from proposed unit 1. In my opinion, the proposed development would not have an undue impact on the character and setting of the protected structure given its set back from the protected structure. Unit 1 would be a bungalow which would integrate in an appropriate manner with the existing streetscape. It is noted that the conservation officer of Fingal County Council did not object to the proposed development.

Property devaluation

7.12.3 Third parties raise concerns that if the development is permitted it will decrease the value of their property and others in the area. No documentary evidence has been submitted to demonstrate that the development will adversely affect property values in the area, and it is likely that the provision of 8 units will provide more choice and desirability for the area as a whole.

7.12.4 It may be the perception of appellants that their residential amenities will be affected and hence the value of their property will decrease. I have already explained that, in my opinion, residential amenities will not be impacted upon to any great degree. Therefore, I am not satisfied that a demonstrable case has been advanced to be certain that property values will be adversely affected by the development as proposed and amended by the further information submitted to the planning authority by the applicant.

Boundary wall

7.12.5 Concerns are raised that the proposed development would damage the rear (eastern) boundary and that, should permission be granted then, this wall should be erected first to maintain security and privacy.

7.12.6 In response to this, the first party response to the third-party appeal states that the entire development along the boundary with No.39 will be confined within the

development boundary and within the ownership of the applicant. There is no intention to interfere with the property of neighbours. I would agree with the appellants that the boundary wall should be built in advance of major works on site to ensure the security and privacy of the neighbouring property. This matter could be dealt with by way of condition, should the Board be of a mind to grant planning permission.

Maps

7.12.7 There are concerns that the base maps used for the site location plans and site plans are out of date and do not show extensions to neighbouring dwellings.

7.12.8 In response to this, the first party states that standard OS mapping has been provided to indicate the location of the site and its outline. In my opinion any land related dispute is a civil matter which are ultimately a matter for resolution in the court and is not a matter which the Board can consider.

Fingal County Council letter of consent

7.12.9 Third parties are concerned that Fingal County Council provided a letter of consent to alterations to the grass verge of No.41 Rathbeale Road.

7.12.10 While I note the concerns of the third parties, Fingal County Council has provided a letter of consent for works to be undertaken to grass verge of No. 41 Rathbeale Road, which is the legitimate right of landowners. This is not a matter on which the Board can comment.

Application procedure

7.12.11 Third parties have highlighted concerns relating to process of the application, including site notices relating to a previous application not being removed for an extended period of time which effected the potential number of objectors to the initial application.

7.12.12 In terms of procedural matters and the alleged irregularities relating to the timing of the removal of previous site notice and erection of the site notice for the application currently being considered, I note that both matters were considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned parties from making representations.

8 AA Screening

- 8.1 I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The proposed development is located within an urban area in proximity to Swords. The proposal comprises of the construction of 8 dwellings and associated site works.
- 8.2 The subject land is not directly adjacent to a European site. The closest sites are the Malahide Estuary SAC which is 1.4km to the northeast and the Malahide Estuary SPA which is located c. 1.7km to the northeast of the site. It is noted that there is no hydrological connection between the site and either the Malahide Estuary or the Malahide Estuary SPA. In this regard, all surface water, effluent, and greywater generated on site is required to be discharged to the Uisce Eireann Sewerage Network.
- 8.2 Having considered the nature, scale, and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:
- The relatively small scale of the proposal; and
 - The location of the development and its distance from the closest European Site.
- 8.3 I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9 Recommendation

- 9.1 It is recommended that planning permission be granted.

10 Reasons and Considerations

- 10.1 Having regard to the provisions of the residential zoning objective of the subject site, its location in relation to existing and future public transport, Swords Town Centre and to the nature and scale of the proposed development, it is considered that subject to

compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or property in the vicinity and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 18th day of December 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the

development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The proposed development shall be amended as follows:

- (a) The proposal shall include a 3m set back of the front boundary wall from Rathbeale Road to facilitate future cycle and pedestrian facilities along Rathbeale Road.
- (b) The stairwell windows at first floor level of the rear elevations of units 2 -8 shall be obscured by opaque glazing and shall be non-opening.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of ensuring future pedestrian and cycle facilities along Rathbeale Road and the residential amenity of the properties to the east.

3. No development shall commence on the site until such time as the following have been agreed and complied with:

- (a) Requirements of Fingal County Councils Transport Planning Section in relation to the roads and footpath, public lighting, open spaces, and water services to be taken in charge.
- (b) Requirements of Fingal County Councils Water Services Planning Section.
- (c) Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Full details shall be agreed with the Planning Authority prior to commencement of development and all works shall be completed by the applicant, to the satisfaction of the Planning Authority prior to the occupation of any house within the proposed development.

Reason: In the interests of roads and traffic safety, protection of the natural environment, public health and the proper planning and sustainable development of the area

4. Proposals for a naming / numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

5. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated

to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

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

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

6. The developer shall enter into water and wastewater connection agreements with Uisce Eireann, prior to commencement of development.

Reason: In the interest of public health

7. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation

from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the 'Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects,' published by the Environmental Protection Agency in 2021.

Reason: In the interest of sustainable waste management.

10. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

11. a) All ground works associated with the proposed development shall be monitored under licence by a suitably qualified archaeologist. Prior to construction all previously identified archaeological features and deposits should be conserved by record (full excavation) prior to any ground works under the terms of an agreed Method Statement agreed by the Department. All topsoil

stripping associated with the archaeological monitoring should be carried out using a toothless flat grading bucket only.

b) Should further archaeological material be found during the course of works, the work on the site shall be stopped pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department with regard to any necessary mitigating action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features, or other objects of archaeological interest

12. The developer shall pay to the planning authority a financial contribution of as a contribution in lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the adopted Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any indexation provisions of the Scheme at the time of payment.

Reason: It is a requirement of the Planning and Development Act, 2000, as amended, that a condition requiring contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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.

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

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

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

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

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.

Ronan Murphy
Planning Inspector

27 May 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-321902-25
Proposed Development Summary	Partial demolition and remodelling of the existing bungalow with new vehicular entrance to Rathbeale Road; construction of 1 dormer bungalow with revisions to existing vehicular entrance to Rathbeale Road; construction of 7 two-storey dwellings with individual vehicular entrances to Brackenstown Avenue and all associated site works
Development Address	41 Rathbeale Road
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project.' Proceed to Q2. <input type="checkbox"/> No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	10(b)(i): Construction of more than 500 dwelling units 10 (b)(iv): Urban Development which would 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.

	<p>15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.</p> <p>Demolition: Class 14</p>
<p><input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3</p>	
<p>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</p>	
<p><input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted</p>	<p>The proposed development comprises of a residential development (8residential units) on a site with an area of 0.26ha. The proposal is below the thresholds set out in Class 10(b)(i) and 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.</p>

proceed to Q4. (Form 3 Required)	
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4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3) <i>[Delete if not relevant]</i>
No <input type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3) <i>[Delete if not relevant]</i>

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP-321902-25
Proposed Development Summary	Partial demolition and remodelling of the existing bungalow with new vehicular entrance to Rathbeale Road; construction of 1 dormer bungalow with revisions to existing vehicular entrance to Rathbeale Road; construction of 7 two-storey dwellings with individual vehicular entrances to Brackenstown Avenue and all associated site works.
Development Address	41 Rathbeale Road

This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.

<p>Characteristics of proposed development</p> <p>(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 demolition of part of an existing dwelling and construction of an 8-house development comes forward as a stand-alone project, with 8 No. car parking spaces, vehicular access, hard and soft landscaping. The development requires modest demolition works and clearance of overgrown site required. The development 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</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of 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).</p>	<p>Briefly comment on the location of the development, having regard to the criteria listed</p> <p>The development is situated in an urban built-up serviced location not within an ACA or any sensitive landscapes.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects, and opportunities for mitigation).</p>	<p>Loss of trees and demolition of part of a building required. Having regard to the nature of the proposed development, consisting of a 8-unit residential development, landscaped area, car parking and vehicular access, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and</p>

	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 <i>[Delete if not relevant]</i>
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	No
There is a real likelihood of significant effects on the environment.	No

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)