



An
Coimisiún
Pleanála

Inspector's Report

ACP-324331-26

Development

10 year permission for construction of 530 residential units, Creche, 163 car parking spaces, ESB substation, Photovoltaic roof mounted panels, hard and soft landscaping. The planning application may be inspected online at www.barrysparks-lrd.ie. An Environmental Impact Assessment Report (EIAR) and a Natura Impact Assessment (NIS) were submitted to the Planning Authority.

Location

Barrysparks and Crowscastle (lands generally bound by the R132 to the north, Lakeshore Drive to the west, Drynam Road to the east and the Holywell Distributor Road to the south)., Swords, Co. Dublin

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

LRD0055/S3E

Applicant(s)	Bovale Developments Unlimited Company
Type of Application	Planning permission – Large Scale Development
Planning Authority Decision	Grant permission with conditions
Type of Appeal	First Party V Financial Contribution
Appellant(s)	Bovale Developments Unlimited Company
Observer(s)	N/A
Date of Site Inspection	N/A
Inspector	Sarah O'Mahony

Contents

1.0 Introduction	4
2.0 Site Location and Description	5
3.0 Proposed Development	5
4.0 Planning Authority Decision	7
4.1. Further Information	7
4.4. Decision	9
4.5. Planning Authority Reports	9
4.6. Third Party Observations	12
5.0 Planning History.....	13
6.0 Legislative Context	13
7.0 Policy Context.....	15
7.1. Swords Masterplan including Barrysparks, Crowscastle, Fosterstown and Estuary West, 2019	15
7.2. Development Plan.....	15
7.3. Development Contribution Scheme 2026-2030	18
8.0 EIA Screening.....	20
9.0 The Appeal	21
9.1. Grounds of Appeal	21
9.2. Planning Authority Response.....	22
9.3. Observations.....	23
9.4. Further Responses	23
10.0 Assessment.....	23
10.1. Introduction.....	23
10.2. DMSO51 and CIO5038 – Overall population standard	24

10.3.	DMSO52 – On-site Standard.....	25
10.4.	Conclusion.....	28
11.0	Recommendation	28
12.0	Reasons and Considerations.....	28

Appendix 1 – Form 1: EIA Pre-Screening

1.0 Introduction

- 1.1. This report assesses a first-party appeal against a condition of the decision of Fingal County Council to grant permission for a large-scale residential development (LRD). The appeal relates solely to the imposition of a development contribution under Section 48(1) of the Planning and Development Act 2000, as amended. No appeal has been brought by any other person against the decision of the planning authority, and therefore, in accordance with Section 48(13)(a) of the Act, and also Section 8.11 of the Development Management Guidelines, 2007, An Coimisiún must not determine this application as if it had been made to it in the first instance, but only the matters subject of this financial contribution appeal.

2.0 Site Location and Description

- 2.1. The 6.3ha greenfield site is situated in Swords, north county Dublin. It is located southeast of the Pavillion shopping centre and northeast of the airside shopping centre and retail park. The R132 regional road forms the northwestern boundary while access is also provided from a local roundabout at Holywell Road at the southeast.
- 2.2. The site is irregular in shape and comprises grass and scrubland with some hedgerows and tree cover. There is a stream traversing the site from west to east and the landform falls down towards the stream.
- 2.3. Adjacent land is in a mix of commercial, light industrial, retail and residential uses.

3.0 Proposed Development

- 3.1. 10 year planning permission was sought for a large-scale residential development which comprises the following:
- 530no. apartment units and a creche in 4no. blocks ranging from 1 to 9 stories.
 - Communal and public open space
 - 163no. car parking spaces at surface and basement level

- Vehicular connections to the existing roundabout and a new fully signalised junction with the R132 with associated turning lanes and a separate pedestrian and cycle crossing on the R132.
- Connections to public utilities

3.2. The following documentation was submitted with the application together with all statutory notices and drawings:

Environmental Impact Assessment Report	Natura Impact Statement
Planning Authority LRD Opinion	Applicant's response to LRD opinion
Masterplan Vision & Urban Design Statement	Schedule of accommodation
Architectural & Urban Design Statement	Housing Quality Assessment
CGI Images and Photomontages	Building Lifecycle Report
Arboricultural Report & Tree Protection, Removal & Survey Plans	Part V proposals
Climate Action Energy Statement	Engineering Planning Report
Landscape Rationale	Flood Risk Assessment
Solar Photovoltaic Glint & Glare Assessment	Daylight and Sunlight Analysis
DMURS and Cycle Design Manual Compatibility Report	Road Safety Audit
Traffic & Transport Assessment and MMP	Hydrological Risk Assessment
Resource & Waste Management Plan	Outline CEMP
Site Lighting Report & Drawings	Green Infrastructure Plan
Operational Waste Management Plan	

Table 1: List of enclosures

3.3. Please see tables 2 and 3 below which set out some key statistics for the proposed development prior to the further information request:

Aspect of Development	Development Statistic
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Gross Site Area	6.3ha
Net Site Area	3.3ha
No. of Units	530
Unit Type	Apartments
Site Density (based on net area)	157 dph
Public Open Space (excluding communal open space and pocket parks)	9,286m ² (27% of the net site). This includes 4,059m ² (12% of net site area) for the purpose of this LRD application and the remaining representing public open space for a proposed future phase of residential development.

Table 2: Key Development Statistics

Type	No. Units	%
1 bed units	244	46%
2 bed units	235	44%
3 bed units	51	10%
Total	530	100%

Table 3: Unit Mix

4.0 Planning Authority Decision

4.1. Further Information

4.1.1. 9no. items of further information were sought regarding:

- Detailed design and layout of the apartment blocks including external finishes, passive surveillance and internal amenity matters.

- Transportation related matters including additional set down and loading areas, waste management, car share details and preliminary design to upgrade an existing roundabout.
- Additional public open space equating to 22,425m², play areas and equipment, tree planting plan and detailed design specifications.
- Revised Noise Impact Assessment to include the impact of industrial noise.
- Additional information required to undertake EIA including:
 - Detailed CEMP including ecological mitigation, habitat mapping, ecological impacts including bats and birds, construction phase surface water management, operational phase impacts to existing stream, invasive species, site investigations, water sampling results, wastewater outfalls, buffer zones,
- Address Appropriate Assessment related concerns including buffer zones for construction stage surface water management, additional mitigation to protect existing stream, assess the impact of the new road on the stream, clarify trade effluent references.
- Submit a revised public lighting scheme to comply with detailed specifications.
- Submit a Community and Social Infrastructure Audit.
- Submit a Climate Action Energy Statement.

4.2. The response was received within the appropriate timeframe and deemed significant. Revised statutory notices were submitted accordingly.

4.3. The applicant responded to item no. 3(l) regarding public open space in a standalone document. It outlined how the further information response resulted in alterations to the red site line and the gross site area now equated to 6.68ha however the increase related to roads infrastructure and there was no increase to the net site area which remained at 3.38ha. It noted objective 5.1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) requires a minimum of 10% and no more than 15% of the net site area to be provided for public open space. It also highlighted various objectives from the Fingal Development Plan 2023-2029 for calculating open space as well as a masterplan for the area which set out design and layout principles. It suggested if

Objective DMS051 was applied (which requires 2.5ha of open space per 1000 population), it would not be possible to achieve the vision and principles and objectives relating to land use, built form/ density and green infrastructure contained in Chapter 3 of the 2019 Masterplan. It contends that the applicable standard is 10-15% of the net site area. 27% is proposed in total including 12% of the net site area which complies with the Compact Settlement Guidelines and the remaining 15% provided within this application will be allocated to future residential development at Phase 2 and 3, located to the east and north east of the current application site. This approach complies with the vision and principles of the masterplan whereas implementing Objective DMS051 would require additional open space which would result in the masterplan principles and objectives not being achievable or implementable.

4.4. Decision

- 4.4.1. A notification to grant permission was issued on 06th May 2026 subject to 27no. conditions including no. 26 as set out below:

26. Prior to Commencement of development a financial contribution in the sum of €1,077,855.14 be paid by the applicant to Fingal County Council in lieu of open space provision towards the cost of amenity works in the area of the proposed development in accordance with the requirements of the Fingal Development Plan based on a shortfall of 18,366 sqm of open space.

Reason: The provision of such services in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing the services.

- 4.4.2. For clarity, Fingal County Council issued a letter dated 15th May 2026 stating a clerical error occurred and condition no. 20 was to be omitted. This condition referred to a section 47 agreement restricting the sale of residential units to individual purchasers and is not relevant to the appeal.

4.5. Planning Authority Reports

- 4.5.1. Please note that the summary below relates only to aspects of those reports which are relevant to the appeal.

4.5.2. Planning Reports

- Two reports were issued, one seeking further information and the latter assessing it and recommending a grant of permission.
- It considered the further information response did not comply with the required open space provision required in accordance with future populations and objective DMSO51. It agreed with the recommendations of the Parks Division report that a financial contribution should be sought in lieu of a stated deficit in open space.

4.5.3. Parks Division Reports

- The first report required the pocket park between apartment blocks C and D to be removed from the open space calculation due to its communal nature and fenced character. It also set out a calculation of open space requirements in terms of both the population and area rates set out in the Development Plan as follows:

Type	No. Units	Bedspace/Population (Rate as per Objective DMSO51)
1 and 2 bed units	479	718.5
3 bed units	51	178.5
Total	530	897
Open space requirement is 2.5ha /1000 persons (Objectives DMSO51 and CISO38)		897no. persons = 2.2425ha requirement (22,425m²)
15% open space on site (objective DMSO52)	Net site area = 3.38ha	15% = 0.5070ha

Table 4: Open space requirements

- The second report, following receipt of the further information response. acknowledges the proposed 12% of net site area to be provided, but highlights the purpose and function of objective DMSO51, requiring 2.5 hectares of public open space per 1,000 population. It states:

This standard is not intended to suggest that all developments will be capable of physically providing the full quantum of open space required to meet this population-based benchmark within their site boundaries. Rather, the purpose of the standard is to ensure that, cumulatively, new development contributes to the delivery of adequate recreational infrastructure across the wider area.

In circumstances where the full open space requirement arising from a development cannot be accommodated within the application site, the Development Plan provides for a financial contribution in lieu of public open space. This mechanism enables the Planning Authority to secure funding necessary to deliver public recreational infrastructure within the wider area that will serve new and existing communities.

These facilities are essential in ensuring that the level of recreational provision within the area keeps pace with population growth associated with new residential development.

The Parks & Green Infrastructure Division therefore does not accept that the provision of 12% public open space within the application site negates the requirement to address the broader public open space needs generated by the proposed population. The contribution in lieu of public open space is a key mechanism through which the council can deliver strategic recreational amenities that cannot reasonably be accommodated within individual development sites.

Accordingly, as the development does not provide the full extent of public open space required to meet the population-based standard set out in Objective DMSO51, the Parks & Green Infrastructure Division considers it appropriate that a contribution in lieu of public open space

be applied in accordance with the provisions of the Fingal Development Plan 2023–2029.

- The reports do not comment on the acceptability or otherwise of the proposed 12% on-site provision of open space and do not request a justification as to why 15% open space is not provided. They also do not provide a breakdown of how the financial contribution in lieu of open space was calculated. The second report outlines a recommendation to provide a condition requiring a financial contribution in lieu of a short of 18,366m² public open space however no monetary figure is provided.

4.6. Third Party Observations

4.6.1. 2no. submissions were received from Lorcan Tyrrell on behalf of 6no. dwellings in The Willows and Commons East, and from John O'Brien and Denise Batt.

4.6.2. They raised the following matters:

- Compliance with zoning.
- Location adjacent business park is unsuitable for residential purposes.
- Lack of car parking
- Insufficient social infrastructure.
- Existing public transport is at capacity.
- Over development.
- Maintain residential character.
- Site security management plan required,
- Retain and enhance existing residential boundaries.
- Hydrological assessment should be undertaken.
- Limit construction hours.
- Prepare a construction management plan.
- Engage in pre-planning consultation regarding future phases to address masterplan alignment, overshadowing, daylight and sunlight, overlooking, privacy,

public realm, safety and prematurity in the absence of infrastructure including metrolink.

5.0 Planning History

No relevant planning history on the subject site. Adjacent planning history includes the following:

- ACP: NA29N.314724: Railway (Metrolink - Estuary to Charlemont via Dublin Airport) Order [2022]. Decision made to make the Railway Order with conditions.
- ACP: HA06D.317121: BusConnects Swords to City Centre Bus Corridor Scheme. Decision made to approve scheme with conditions.
- F23A/0727: Planning permission granted for a three-storey healthcare facility over lower ground floor car park. GFA 4,425.8m².

6.0 Legislative Context

- 6.1.1. Section 48 of the Planning and Development Act 2000, as amended provides as follows:

48.— (1) A planning authority may, when granting a permission under section 34, include conditions for requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority and that is provided, or that it is intended will be provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities).

(2) (a) Subject to paragraph (c), the basis for the determination of a contribution under subsection (1) shall be set out in a development contribution scheme made under this section, and a planning authority may make one or more schemes in respect of different parts of its functional area.

(b) A scheme may make provision for payment of different contributions in respect of different classes or descriptions of development.

(c) A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where

specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

(3) (a) A scheme shall state the basis for determining the contributions to be paid in respect of public infrastructure and facilities, in accordance with the terms of the scheme.

(b) In stating the basis for determining the contributions in accordance with paragraph (a), the scheme shall indicate the contribution to be paid in respect of the different classes of public infrastructure and facilities which are provided or to be provided by any local authority and the planning authority shall have regard to the actual estimated cost of providing the classes of public infrastructure and facilities, except that any benefit which accrues in respect of existing development may not be included in any such determination.

(c) A scheme may allow for the payment of a reduced contribution or no contribution in certain circumstances, in accordance with the provisions of the scheme.

(10) (a) Subject to paragraph (b), no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.

(b) An appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority.

(c) Notwithstanding section 34 (11), where an appeal is brought in accordance with paragraph (b), and no other appeal of the decision of a planning authority is brought by any other person under section 37, the authority shall make the grant of permission as soon as may be after the expiration of the period for the taking of an appeal, provided that the person who takes the appeal in accordance with paragraph (b) furnishes to the planning authority security for payment of the full amount of the contribution as specified in the condition.

7.0 Policy Context

7.1. Swords Masterplan including Barrysparks, Crowscastle, Fosterstown and Estuary West, 2019

- 7.1.1. The masterplan seeks to accommodate a mixed-use commercial and residential development that will grow into a key economic cluster both for Swords and the Greater Dublin Area. It advises building heights should range from 2-9 stories with a central green spine traversing the lands from northwest to southeast. Residential uses are suggested for the northern section closer to the proposed Metrolink station and Bus Connects corridor. With regard to open space it states the following:

“Provide public open space in the form of green corridors which facilitate pedestrian and cyclist facilities and the linking of the Masterplan lands with the wider Swords area. The open space in the Masterplan lands will not only act to create sustainable connections for people and places, but will also incorporate the necessary SuDS requirements for this site.

- 7.1.2. Section 5 sets out key objectives for green infrastructure which reinforces the central spine concept while section 6 sets out an indicative built form which locates a small number of dwellings adjacent to existing dwellings at the northeast of the site and a large number of apartments in the north and northwest.

7.2. Development Plan

- 7.2.1. The site is governed by the policies and objectives of the Fingal County Development Plan 2023-2029, referred to hereafter as the Development Plan.
- 7.2.2. There are two zoning objectives on the site. The north is zoned MRE – Metro and Rail Economic Corridor which seeks to *‘Facilitate opportunities for high density mixed use employment and commercial development and support the provision of an appropriate quantum of residential development within the Metro and Rail Economic Corridor’*. The southern section is zoned HT – High Technology which seeks to *‘Provide for office, research and development and high technology/high technology manufacturing type employment in a high quality built and landscaped environment’*.

- 7.2.3. Residential uses are permitted in principle in the MRE area but not the HT area. Childcare facilities are permitted in principle in the MRE area but are not listed in either of the 'permitted in principle' or 'not permitted' lists of land uses for the HT area. A footnote states that such unspecified uses will be assessed in terms of the contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan.
- 7.2.4. Section 2.4.2 refers to masterplans and states '*The Council will continue to implement the Masterplans currently in place at the time of adoption of the Development Plan. The operational Masterplans for Fingal County Council are listed in Table 2.17 below.*' The Swords Masterplan outlined above is listed in Table 2.17.
- 7.2.5. The following policies and objectives are relevant to the appeal:

Policy CSP3 - Strategic Development Areas and Corridors

Support the economic development of Fingal in line with the policies and objectives stipulated in the National Planning Framework and the Regional Spatial and Economic Strategy and utilise active land measures such as provision of LAPs and masterplans across the County as part of the development approach for Strategic Development Areas and Corridors.

Policy CSP8 – Implementation of Masterplans

Implement Masterplans prepared in accordance with the Development Plan.

Objective CSO6 – Phased Development

Ensure the phased development of new housing areas in tandem with the delivery of physical and social infrastructure provision as identified within Local Area Plans or Masterplans, as informed by assessments carried out by the Planning Authority.

Objective DMSO51 – Minimum Public Open Space Provision

Require a minimum public open space provision of 2.5 hectares per 1000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.

Objective DMSO52 – Public Open Space Provision

Public open space shall be provided in accordance with Table 14.12.

Land use	Minimum public open space standards
Overall standard	2.5 hectares per 1000 population
New residential development on greenfield sites/LAP lands	12% - 15% of site area
New residential development on infill/ brownfield sites	12% of site area

Table 14.12: Recommended Quantitative Standards (Sustainable Residential Developments in Urban Areas, Guidelines for Planning Authorities 2009)

(Target minimum amount of 15% except in cases where the developer can demonstrate that this is not possible, in which case the 12% to 15% range will apply.)

Table 5: Development Plan Table 14.12

Objective DMSO53 – Financial Contribution in Lieu of Public Open Space

Require minimum open space, as outlined in Table 14.12 for a proposed development site area (Target minimum amount of 15% except in cases where the developer can demonstrate that this is not possible, in which case the 12% to 15% range will apply) to be designated for use as public open space. The Council has the discretion to accept a financial contribution in lieu of the remaining open space requirement to allow provision for the acquisition of additional open space or the upgrade of existing parks and open spaces subject to these additional facilities meeting the standards specified in Table 14.11. Where the Council accepts financial contributions in lieu of open space, the contribution shall be calculated on the basis of 25% Class 2 and 75% Class 1 in addition to the development costs of the open space.

Objective DMSO57 – Development Contribution Schemes

Require the monetary value in lieu of open spaces to be in line with the Fingal County Council Development Contribution Scheme.

- 7.2.6. Table 14.11: Public Open Space and Play Space Hierarchy and Accessibility Standards sets out five different classes of public spaces ranging from pocket parks up to regional parks. They are classed according to their size and range of facilities as well as their distance from dwellings. This table is also reproduced in chapter 4 and titled table 4.2.
- 7.2.7. For clarity, I also note that table 14.12 is a duplication of table 4.3 in chapter 4 of the Plan. In both cases, the minimum public open space standard is extracted from the recommended standards set out in Sustainable Residential Developments in Urban Areas, Guidelines for Planning Authorities (2009). Further, objective DMSO51 extracted above, is a duplication of objective CIOSO38 outlined also in chapter 4.

7.3. Development Contribution Scheme 2026-2030

- 7.3.1. Paragraphs 19 and 20 of the DCS state the following:

19. The Fingal County Development Plan 2023-2029 provides the Planning Authority with discretion to determine a financial contribution in lieu of all or part of the open space requirement for a particular development. This shortfall is based on the Overall Public Open Space requirements as outlined in the current Development Plan standards. (Ref. Objectives: DMSO51 DMSO52, DMSO53, DMSO54 and DMSO57)

20. This contribution in lieu of open space will be levied at the following rates: -

- Class I Open Space - €150,000 per acre to purchase land based on the value of amenity land, plus €150,000 per acre for development costs.
- Class II Open Space - €450,000 per acre to purchase land in residential areas, plus €150,000 per acre for development costs.

Classification of Open Space	Type of Open Space*	Description
Class I	• Regional Park	Generally, Parks & Public Open Spaces larger than 2 hectares in area and designed to accommodate a wide variety of facilities and

	• Urban Neighbourhood Park • Local Park	uses due to their size including public playgrounds over 400 sq. metres in area, sports fields and extensive walking and cycling infrastructure. Passive recreational and biodiversity areas are also accommodated in these parks and open spaces.
Class II	• Small Park • Pocket Park	Generally, Public Open Spaces between 500 sq. metres and less than 2 hectares in area, located within and preferably overlooked by residential development. They are designed to accommodate small play areas suitable for young children and do not generally include facilities for organised sports.

Type of Open Space*: As defined in Table 4.2 Public Open Space and Play Space Hierarchy and Accessibility Standards - Fingal County Development Plan 2023-2029

The above contribution will apply to all relevant permissions including provision of residential units to the Council for social housing and under Part V of the PDA.

Table 6: Monetary rates for open space contributions.

5.3 National Guidance

Development Contributions – Guidelines for Planning Authorities, 2013

- 7.3.2. The Guidelines set out that all planning permissions granted by planning authorities after the adoption of development contribution schemes under the Planning and Development Act 2000 are subject to the conditions of those schemes. The primary objective of the development contribution mechanism is to partly fund the provision of essential public infrastructure, without which, development could not proceed.

Development Management – Guidelines for Planning Authorities, 2007

- 7.3.3. Section 8.11 states that in appeals relating to section 48/section 49 financial contributions conditions only, the Commission is restricted to consideration of the matters under appeal.

Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities, 2024

- 7.3.4. Policy and Objective 5.1 - Public Open Space requires statutory development plans to include objective(s) relating to public open space in new residential developments and mixed use developments with a residential element. It states:

'The requirement in the development plan shall be for public open space provision of not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances. Different minimum requirements (within the 10-15% range) may be set for different areas. The minimum requirement should be justified taking into account existing public open space provision in the area and broader nature conservation and environmental considerations.'

- 7.3.5. Please note these guidelines are referenced hereafter as the Compact Settlement Guidelines.

5.4 Natural Heritage Designations

- 7.3.6. The site is situated 1.2km northwest of Feltrim Hill proposed Natural Heritage Area (pNHA).
- 7.3.7. It is also situated 1.4km southwest of Malahide Estuary Special Protection Area, Special Area of Conservation and pNHA.

8.0 EIA Screening

- 8.1. This case is a first party appeal against a development contribution condition. This does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings.

9.0 The Appeal

9.1. Grounds of Appeal

- The gross site area is 6.68ha however the net area is 3.38ha in accordance with the Compact Settlement Guidelines and as accepted by the Planning Authority.
- Total public open space provision is 9,286m² equating to 27% of the net site area. This comprises 4,059m² (12%) for phase 1 development and the remaining 5,277m² (15%) is allocated to future residential development in phases 2 and 3. Separately, 4,808m² communal open space is also proposed to serve the apartment blocks which is 1,482m² in excess of the minimum requirements set out in the Apartment Guidelines. Private open space is also provided for each unit completing the hierarchy of open space provision on the site.
- The proposed layout accords with the full extent of the central green spine 'north-south green corridor' illustrated in the adopted masterplan insofar as it relates to that northern section of the masterplan lands. All required active travel infrastructure and passive open spaces are provided/proposed.
- The 12% complies with the requirement of policy and objective 5.1 of the Compact Settlement Guidelines as well as objective DMSO52 of the Development Plan. Therefore, the requirement for a contribution in lieu of open space does not apply and condition 26 should be deleted.
- A precedent has been set by An Coimisiún Pleanála in recently decided case refs. ABP-320701-224 and ABP-322747-25 where An Coimisiún decided:
 - The correct standard to be applied is the 10-15% site area based standard and not calculations derived from population based metrics.
 - Where the contribution does not clearly relate to a demonstratable shortfall when assessed against the 12-15% rate, the relevant condition is an incorrect application of the Section 48 Development Contribution Scheme.

- Where no shortfall in public open space arises and the Development Contribution Scheme has not been applied correctly, the remedy is to delete the condition.
- Having regard to the above precedent cases and as there is no demonstrable shortfall when the 12-15% standard is applied, condition no. 26 should be deleted.

9.2. Planning Authority Response

- Notes the appeal, the applicant's position regarding compliance with the Compact Settlement Guidelines and the Development Plan quantitative standards and acknowledges the provision of 12% of the overall site area.
- The response however highlights the purpose and function of objective DMS051. It acknowledges that not all developments will be able to provide this quantum of open space within their site and suggests this is not the intention of the objective which is to ensure that new development contributes to the delivery of adequate recreational infrastructure across the wider area. It notes that the Development Plan provides for such circumstances by means of the financial contribution and states '*This mechanism enables the Planning Authority to secure funding necessary to deliver public recreational infrastructure within the wider area that will serve new and existing communities.*' This is later expanded to refer to the Council's ability to '*deliver strategic recreational amenities that cannot reasonably be accommodated within individual development sites.*'
- It goes on to state that it does not accept the applicant's position that the provision of open space within the site negates the requirement to address the broader public open space needs generated by the proposed population.
- It suggests that the additional 5,227m² of open space allocated for future phases 2 and 3 of residential development is reserved exclusively for bed space calculations in those stages and cannot be applied to this phase.

- Accordingly, it contends that the development does not fully comply with objective DMSO51 and therefore requests that condition no. 26 remains unchanged.
- The report does not provide a breakdown of the calculation demonstrating a basis for the financial contribution of €1,077,855.14.

9.3. **Observations**

- None

9.4. **Further Responses**

- None

10.0 **Assessment**

10.1. **Introduction**

10.1.1. This appeal is limited solely to a determination as to whether the quantum of proposed open space complies with Fingal County Development Plan 2023-2029 and/or with the Compact Settlement Guidelines, and if there is a shortfall of open space or not. Accordingly, the appeal centres around whether condition no. 26 should be retained, amended or deleted. Condition no. 26 is set out as follows:

26. Prior to Commencement of development a financial contribution in the sum of €1,077,855.14 be paid by the applicant to Fingal County Council in lieu of open space provision towards the cost of amenity works in the area of the proposed development in accordance with the requirements of the Fingal Development Plan based on a shortfall of 18,366 sqm of open space.

Reason: The provision of such services in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing the services.

10.1.2. I note that all parties agree the gross site measures 6.3ha and the net site 3.38ha. Having reviewed the guidance provided in this regard in the Compact Settlement Guidelines as well as the application documentation, I do not dispute this calculation.

I further note the application proposes to provide 9,286m² of public open space which equates to 27% of the net site area. This comprises 4,059m² (12%) for phase 1 development and the remaining 5,277m² (15%) is allocated to future residential development in phases 2 and 3.

10.1.3. The Development Plan sets out two different standards for open space; DMSO51 and CIO5038 require an 'overall' population based standard while DMSO52 is an on-site standard. Sections 10.2 and 10.3 below discuss their applicability to this case.

10.1.4. For clarity, it is not suggested in any manner in the Development Plan or Local Authority reports that the quantum of open space required under DMSO51 and CIO5038 (population based) and DMSO52 (area based) should both be provided and considered cumulatively. In fact, the Development Plan is clear where it states that the population-based standard in DMSO51 and CIO5038 is an overall standard for the provision of park services in the wider area while the area-based standard required by DMSO52 is an on-site minimum. In this regard, if a determination is made that there is a shortfall of open space in either category, regard should be had to this matter to ensure two cumulative monetary figures are not imposed.

10.2. **DMSO51 and CIO5038 – Overall population standard**

10.2.1. Objectives DMSO51 and CIO5038 require the provision of a high rate of open space either physically on the site or else the imposition of a financial contribution in lieu of any shortfall. The report of the Parks and Green Infrastructure Division dated 15th September 2025 calculates the open space requirement according to these objectives as 22,425m² or 2.245ha of open space. I agree with this calculation which is also replicated above in Table 4 of this report.

10.2.2. When the proposed phase 1 residential allocation of 4,059m² (12% of net site area) is removed from that 22,425m², the resulting alleged shortfall is 18,366m² as stated in condition 26. This figure is significantly in excess of the minimum 12-15% requirement set out in the Development Plan.

10.2.3. I note the site is situated within a 1km/15minute walk or 5minute cycle from the Ward River Valley Regional Park which is located west of the Pavillion Shopping Centre. This public park comprises 89ha of public open space which equates to Class 1

open space situated close to the subject site. A bus service currently connects the site to the park while I note the application also proposes to provide a new signalised junction at the north of the site to the R132 *'including works to the north and south bound carriageways and central median of the R132 to provide for the fully signalised junction with associated turning lanes and a separate pedestrian and cycle crossing on the R132.'* This measure would significantly improve accessibility to the north towards the park and remove the barrier of a dual carriageway for pedestrians and cyclists. In this regard and having regard to the proximity of the site to the regional park, I consider this meets the needs of the existing and proposed future resident population in terms of Class 1 public open space requirements.

10.2.4. I further note the adopted masterplan for the applicant's landholding requires the provision of a central spine of public open space which will be partly provided for in this development. Implementation of this masterplan is underpinned by Policies CSP3 and CSP8 as well as objective CSO6 of the Development Plan. This subject application would provide 0.9ha of public open space which equates to Class II open space, however full implementation of the masterplan and green spine would result in a much larger Class 1 park. Ultimately, the full central spine is not yet permitted and remains a potential future proposal which therefore cannot be relied upon in this instance for open space provision on the site or in the area.

10.2.5. In conclusion, I am satisfied that the proximity of the site to the Ward River Valley Regional Park as well as proposed accessibility upgrades across the R132 demonstrates there is no shortfall of Class 1 public open space in the area and as such I do not consider that a condition requiring a financial contribution in lieu of public open space is required in this case.

10.3. **DMSO52 – On-site Standard**

10.3.1. Objective DMSO52 and table 14.12 of the Development Plan require residential developments on greenfield sites such as this, to provide a *'Target minimum amount of 15% except in cases where the developer can demonstrate that this is not possible, in which case the 12% to 15% range will apply'*. Objective DMSO53 also uses the same language and states *'The Council has the discretion to accept a financial contribution in lieu of the remaining open space requirement'*.

10.3.2. The applicant has not provided any demonstration as to why a 15% provision is not possible on the site. The Planning Statement submitted with the application states *‘Public open space, communal open space and private amenity space are provided in accordance with the requirements of the Ministerial Guidelines as set out within Section 5.0 above.’* The appeal also does not refer to this matter but relies on compliance with the Compact Settlement Guidelines and Policy and Objective 5.1 therein which requires a minimum of 10% public open space to be provided. I note that Policy and Objective 5.1 is not a ‘SPPR – Specific Planning Policy Requirement’ which applies to all planning applications, but is a requirement that Planning Authorities include such an objective in their future statutory development plans. The Fingal County Development Plan was prepared and adopted prior to publication of these guidelines, and the adopted variations since this time do not refer to this policy and objective. I therefore do not agree with the applicant’s position that the proposed 12% open space is acceptable simply because it is larger than the 10% required in the guidelines.

10.3.3. While I note the Planning Authority commentary only focussed on a shortfall associated with the population based ‘overall’ requirement, I nonetheless consider there is a 3% shortfall in the on-site provision due to an absence of justification why 15% cannot be provided. In this context I consider that objective DMSO53 applies, and a financial contribution is required for that 3% shortfall in accordance with DMSO52 and also in order to provide a high quality of residential amenity on the site. DMSO53 states *‘Where the Council accepts financial contributions in lieu of open space, the contribution shall be calculated on the basis of 25% Class 2 and 75% Class 1 in addition to the development costs of the open space’*.

10.3.4. I note the monetary rates for open space set out in the Development Contribution Scheme are as follows:

- Class I Open Space - €150,000 per acre to purchase land based on the value of amenity land, plus €150,000 per acre for development costs.
- Class II Open Space - €450,000 per acre to purchase land in residential areas, plus €150,000 per acre for development costs.

10.3.5. The above rates are based on acres and are converted to hectares below for the purposes of unit consistency when carrying out the calculations.

- Class I Open Space - €370,500 per hectare to purchase land based on the value of amenity land, plus €370,500 per hectare for development costs.
- Class II Open Space - €1,111,500 per hectare to purchase land in residential areas, plus €370,500 per hectare for development costs.

10.3.6. 3% of the net site area equates to 0.1014ha and therefore the resulting financial contribution for the 3% shortfall is as follows:

DMSO53: The contribution shall be calculated on the basis of 25% Class 2 and 75% Class 1 in addition to the development costs of the open space		
DMSO53 rate	Development Contribution financial rate	€
Class 1: 75% of 0.1014ha = 0.07605ha	€370,500 per ha to purchase land based on the value of amenity land,	€28,176.52
	€370,500 per ha for development costs	€28,176.52
Total Class 1		€56,353.05
Class 2: 25% of 0.1014ha = 0.02535ha	€1,111,500 per ha to purchase land in residential areas,	€28,176.52
	€370,500 per ha for development costs	€9,392.17
Total Class 2		€37,568.69
Total Class 1 + Class 2		€93,921.74

Table 7: Financial Contribution Calculation

10.3.7. I therefore recommend that a financial contribution of €93,921.74 is attached in lieu of a 3% shortfall in public open space, as required by objectives DMSO52 and DMSO53.

10.4. Conclusion

- 10.4.1. Notwithstanding the Planning Authority's position which considers there is a 22,425m² shortfall of public open space provision, I do not consider a financial contribution in lieu of this shortfall is warranted in this instance in order to comply with objectives DMSO51 and CISO38 due to the proximity of a regional public park to the site as well as transport related upgrade works proposed in this development which would significantly improve accessibility for pedestrians and cyclists to traverse the R132, and therefore enhance accessibility to the park from the site.
- 10.4.2. I do however consider there is a 3% shortfall in public open space provision on the site itself based on the applicant's provision of 12% public open space which does not meet the target minimum of 15% as required by objective DMSO52. This 3% is included within the 22,425m² alluded to previously. The applicant has not demonstrated why the target minimum 15% public open space cannot be provided on the site and I therefore recommend a financial contribution is attached for this 3% shortfall only.

11.0 Recommendation

- 11.1. I recommend that Condition No.26 be AMENDED for the reasons set out hereunder.

12.0 Reasons and Considerations

Having regard to

- (a) The nature, scale and form of the proposed development, including the quantum of public open space provided,
- (b) The pattern of development in the area including proximity to the Ward River Valley Regional Park,
- (c) Fingal County Council Development Contribution Scheme 2026-2030,
- (d) Fingal County Development Plan 2023-2029 including the Swords Masterplan (2019),
- (e) Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024), and

(f) The detailed submissions on file from the appellant and the planning authority, it is considered that the proposed development would provide public open space on the subject site at a rate of 10% thereby representing a shortfall of the 3% from the target minimum of 15% as set out in objective DMS052 of the Fingal County Development Plan 2023-2029, and that a contribution in lieu of public open space is warranted.

In accordance with section 48 of the Planning and Development Act 2000, as amended, it is considered that the terms of the Fingal County Council Development Contribution Scheme 2021-2025 had not been properly applied in respect of condition number 26 and said Council is directed to AMEND condition number 26 as follows:

26. Prior to Commencement of development a financial contribution in the sum of **€93,921.74** be paid by the applicant to Fingal County Council in lieu of open space provision towards the cost of amenity works in the area of the proposed development in accordance with the requirements of the Fingal Development Plan based on a shortfall of 0.1014ha of open space.

Reason: The provision of such services in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing the services.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Sarah O'Mahony
Planning Inspector

12th August 2026