

D C W N E Y

STATEMENT OF MATERIAL CONTRAVENTION

**Proposed Strategic Housing Development
on Lands at Mooretown,
Swords, Co. Dublin**

Applicant: Gerard Gannon Properties

April 2022

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1.0 INTRODUCTION

Downey, Chartered Town Planners, 29 Merrion Square, D02RW64, have prepared this Statement of Material Contravention, on behalf of the applicant, Gerard Gannon Properties. This Statement accompanies a planning application to An Bord Pleanála for a proposed Strategic Housing Development on lands south of the Rathbeale Road, Mooretown, Swords, Co. Dublin, which may be considered to materially contravene the Fingal Development Plan 2017-2023 in terms of car parking provision, trees objective, and LAP designation. However, although this SHD application may materially contravene a certain Development Plan policy, this does not preclude An Bord Pleanála from granting planning permission for the proposed development, as the Board is legally entitled to, in particular circumstances. The circumstances that apply that allow An Bord Pleanála materially contravene a development plan are set out in Section 37(2)(b) of the Planning and Development Act, 2000 (as amended). As per, this Statement seeks to provide justification in relation to the reduced quantum of car parking provision within the proposed scheme and the LAP designation.

The proposed development subject to this SHD application provides for construction of a total of 650 no. residential units including 265 no. houses (240 no. 3 beds and 25 no. 4 beds), 187 no. apartments, 6 no. triplex units, and 192 no. duplex units (113 no. duplex “house” units and 79 no. duplex “apartment” units), 1 no. childcare facility, 5 no. retail units, and 1 no. café/restaurant, along with associated car parking and bicycle parking, landscaping, boundary treatments, and public lighting; proposed new vehicular accesses onto Main Street and onto Mooretown Distributor Road (Western Distributor Link Road) which is partly constructed and also permitted under Reg. Ref. F20A/0096; proposed upgrades to public realm including footpaths, a new pedestrian/cyclist link via Abbeyvale Court; and all associated engineering and site works necessary to facilitate the development including the proposed stormwater storage tank and overflow outfall gravity sewer to the Broadmeadow River with associated manholes on lands locally known as the Celestica/Motorola site, junction of Glen Ellan Road and Balheary Road, and at/on Balheary Road, along with the proposed vehicular/service access onto Balheary Road, Swords.

This statement is being submitted having regard to section 8(1)(a)(iv) of the Planning and Development (Housing) and Residential Tenancies Act, 2016:

“8. (1)(a)(iv) Where the proposed development materially contravenes the said plan, other than in relation to the zoning of the land, indicating why permission should nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.”

and section 37(2)(b) of the Planning and Development Act, 2000 (as amended) which read as follows:

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

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan."

It is respectfully requested that An Bord Pleanála have regard to the following justification for a material contravention of the Fingal Development Plan 2017-2023 in terms of LAP designation, trees objectives, and reduced quantum of car parking provision within the proposed scheme, which is outlined on a performance-based criteria, i.e., achieving a realistic level of car parking standard tailored to the locational attributes of the subject site, mainly proximity of the site to the main access roads and public transport corridor.

It is also respectfully requested that the Board have regard to the justification for the material contravention of the Development Management Standards of Fingal Development Plan 2017-2023 regarding car parking provision, which is conflicting the more flexible and tailored approach of the Section 28 Government Guidelines, particularly 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)', 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2020), and the 'Project Ireland: National Planning Framework 2040' in car parking provision for new developments, where locational attributes of the site is a key element in setting the quantum of car parking spaces.

The proposed development is also of strategic and national importance as there is a clear and urgent need for housing at a national level within Ireland and indeed that permission for the proposed development should be granted having regard to the pattern of development in the Oldtown-Mooretown lands located to the western development boundaries of Swords. Therefore, the proposed development should be considered by An Bord Pleanála even if the proposed development may contravene materially the Fingal Development Plan 2017-2023 relating to the area.

2.0 POTENTIAL MATERIAL CONTRAVENTION

This section seeks to address the issue of potential material contraventions of the Fingal Development Plan 2017-2023 in relation to the LAP designation, trees objective, and car parking provision.

2.1 Local Area Plan (LAP) Designation

The Fingal Development Plan 2017-2023 sets out an objective which seeks the preparation of a Local Area Plan (hereinafter LAP) for particular areas, including the lands at Oldtown-Mooretown within which the subject site is located. The objective arguably required the preparation of an LAP when the Development Plan was made in 2017. This objective is as follows: -

Objective PM13 of the Fingal Development Plan seeks:

“Prepare Local Area Plans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated.”

The Oldtown-Mooretown Local Area Plan 2010-2016 was prepared in accordance with sections 18, 19 and 20 of the Planning and Development Acts, 2000-2007 which set out the provisions for the preparation of Local Area Plans. The life of this Plan was further extended up to 12th July 2020, and as such this Plan has expired since. However, as per **Objective SWORDS 27** of the Development, it is an objective of the Council to:

“Prepare and/or implement the following Local Area Plans and Masterplans during the lifetime of this Plan:

- *Lissenhall East Local Area Plan (see Map Sheet 8, LAP 8.B)*
- *Oldtown / Mooretown Local Area Plan (see Map Sheet 8, LAP 8.C)*
- *Estuary West Masterplan (see Map Sheet 8, MP 8.A)*
- *Estuary Central Masterplan (see Map Sheet 8, MP 8.B)*
- *Estuary East Masterplan (see Map Sheet 8, MP 8.C)*
- *Watery Lane Masterplan (see Map Sheet 8, MP 8.D)*
- *Seatown North Masterplan (see Map Sheet 8, MP 8.E)*
- *Seatown South Masterplan (see Map Sheet 8, MP 8.F)*
- *Brackenstown Masterplan (see Map Sheet 8, MP 8.G)*
- *Barryspark Masterplan (see Map Sheet 8, MP 8.H)*
- *Fosterstown Masterplan (see Map Sheet 8, MP 8.I)*
- *Crowscastle Masterplan (see Map Sheet 8, MP 8.J)”*

This provides that the proposed development may be considered to potentially materially contravene Objective PM13 and Objective SWORDS 27 of the Fingal Development Plan in that the adopted Oldtown-Mooretown LAP, which the subject site fall under, has expired since. However, with respect to the current circumstances of the lands and by matters of planning permission precedent, Downey are of the professional opinion that the aforementioned objectives appear superfluous. To better demonstrate this, the Fingal Development Plan was adopted back in 2017, with Fingal County Council recently commencing the review process of this Development Plan on 12th March 2021. These specific objectives have also been superseded by virtue of planning permission decisions and development that have occurred in the area since 2017.

It is submitted that in circumstances above, the subject land would represent the completion of the Mooretown lands, and that the applicant controls all the land that now in effect amounts to the LAP and is consistent with the previous approach to development in the area and in this regard complies with the objective. It is noted that the LAP designation, on now substantially developed land, essentially conflicts with the requirements to prepare an LAP. Thus, it is submitted that the Objective PM14 and Objective SWORDS 27 of the Fingal Development Plan has either been complied with or by the preparation of this SHD scheme in respect of the remaining lands, the development plan objectives have been superseded.

It is also important to note that despite expiration of the Oldtown-Mooretown LAP, this proposed development has been designed and proposed within the spirit of the Plan and with respect to the earlier phases of the Oldtown-Mooretown lands. As such, the proposed scheme is considered to comply with the vision and aims of the since expired LAP and pertaining planning guidelines for the application site in the context of the wider Oldtown-Mooretown lands. Furthermore, the Draft Fingal Development Plan 2023-2029, which is currently at public display, provides for a list of operational LAPs to continue to implement at the time of adoption of the Development Plan with 9 new Masterplans to be prepared during the plan period. These lists do not include the Oldtown-Mooretown lands in this respect, which further support the foregoing argument.

Therefore, it is submitted that the proposed development does not materially contravene the Fingal Development Plan, however, out of an abundance of caution it has been included in this Material Contravention Statement should it be considered to potentially materially contravene the Fingal Development Plan 2017-2023 by the competent authority in their assessment of the application.

2.2 Trees Objective

In order to facilitate the proposed development, partial removal of group of trees and/or hedgerows would be required. This has been specified on drawing no. MT-P3-002 prepared by Arborist Associates Ltd. as part of the Arborist Pack submitted with this SHD application. The tree protection plan drawing (see figure below) also shows the position of any necessary tree protection measures in order to protect the root zone of the tree and hedge vegetation being retained within the vicinity of where the construction works will occur.

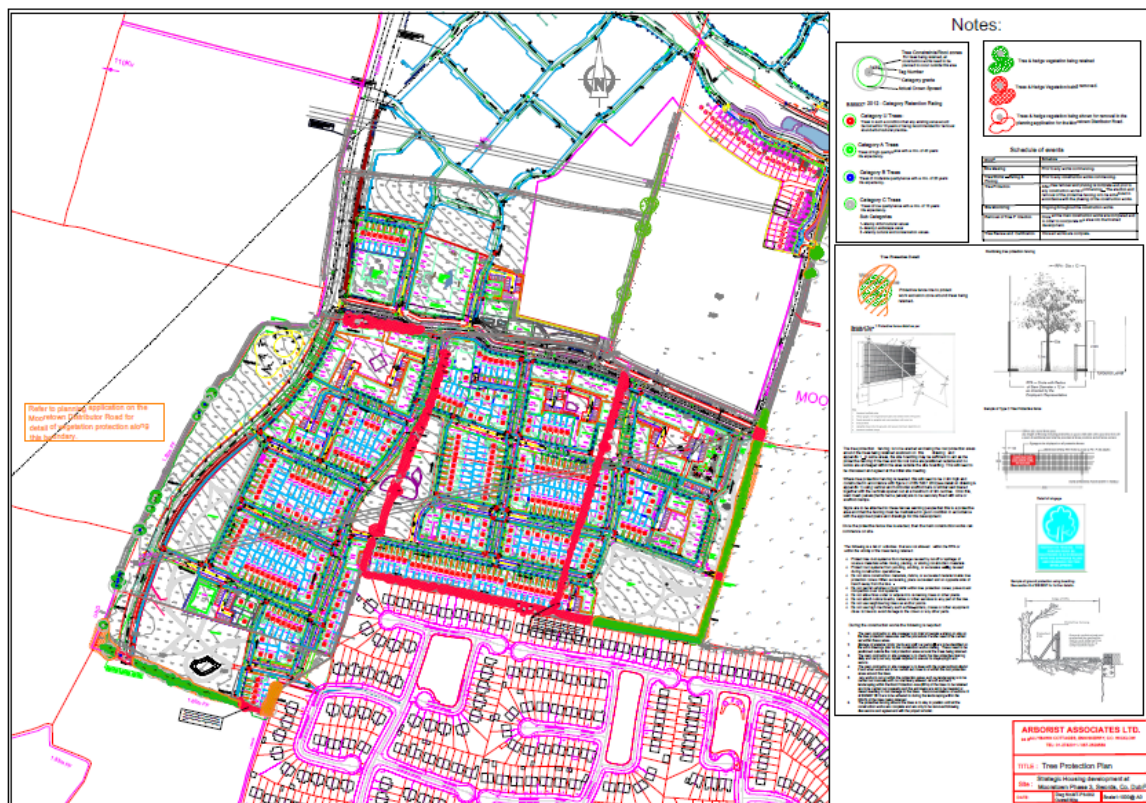


Figure 1. Tree Protection Plan (source: Arborist Associates Ltd.)

Therefore, the proposed development requires a large number of trees to be removed, which regarding the **Objective DMS77** and Objective PM64 of the Fingal Development Plan, this may forward the argument that the proposed development potentially materially contravenes this Objective.

Accordingly, **Objective DMS77** and **Objective PM64** of the Fingal Development Plan both seek to:

“Protect, preserve and ensure the effective management of trees and groups of trees.”

However, it is respectfully submitted that the majority of these trees are of little or no potential either due to their physiological and/or structural condition and their removal would be seen necessary either now or in the short-term as the most appropriate management option. For further details in this regard, please refer to the enclosed Arboricultural Report prepared by Arborist Associate Ltd.

Moreover, with new high-quality and well-structured tree planting, the loss of canopy cover can be replaced and even improved upon in the medium to long term, provided the right species are selected. Also, the development has been designed to retain the main boundary tree cover. This will have a positive visual impact on the development, as it will add an element of maturity to the overall proposed landscape.

Moreover, the landscape proposal has taken into consideration the loss of trees and includes substantial replacement tree planting. New tree planting can help to mitigate the loss of trees and potentially, in the future, enhance local biodiversity and canopy cover.

It is also important to note that prior to any works commencing on site, it is necessary that a meeting be arranged between the project manager, site foremen, the project Arboriculturist and local authority to identify and finalise the trees for removal and the line of the protective fencing.

Therefore, it is submitted that the proposed development does not materially contravene the Fingal Development Plan, however, out of an abundance of caution it has been included in this Material Contravention Statement should it be considered to potentially materially contravene the Fingal Development Plan 2017-2023 by the competent authority in their assessment of the application.

2.3 Car Parking Provision

Set out under Chapter 12 of the Fingal Development Plan 2017-2023, the car parking standards based on land use provision are as follows: -

Table 12.8 - Car Parking Standards

Land Use	Criterion	Proposed	Notes	Category	Norm or Max
House - urban/suburban 1 or 2 bedrooms	Unit	1-2	Within curtilage	Residential	Norm
House - urban/suburban 3 or more bedrooms	Unit	2	Within curtilage	Residential	Norm
House - rural	Unit	2-3	Within curtilage	Residential	Norm
Apartment, townhouse 1 bedroom	Unit	1	Plus 1 visitor space per 5 units	Residential	Norm
Apartment, townhouse 2 bedrooms	Unit	1.5	Plus 1 visitor space per 5 units	Residential	Norm
Apartment, townhouse 3+ bedrooms	Unit	2	Plus 1 visitor space per 5 units	Residential	Norm
Sheltered housing	Unit	0.5	Plus 1 visitor space per 5 units	Residential	Norm
Caravan / mobile home park	Stand	1		Residential	Norm
Hotel, Motel, Motor Inn, Guest House	Bedroom	1		Residential	Norm
Pre-school facilities / creche	Classroom	0.5		Education	Maximum

Figure 2. Car Parking Standards extracted from the Development Plan

According to the Development Plan's car parking standards, the quantum of car parking required to serve the proposed development is 1,235 spaces. However, the proposed development provides for an overall total of 991 no. parking spaces across the scheme. Accordingly, the scheme provides residents car parking at a rate of 1.5 spaces per dwelling. The Development Plan requires that each dwelling to be provided with 2 no. car parking spaces which is being provided within this scheme. Thus, the reduced car parking provision may be considered to potentially materially contravene the Development Plan.

However, adherence of the proposed scheme to the national and regional policy guidance in terms of car parking provision reflects the prime location of the development relative to its connectivity and access to R125 (Rathbeale Road) and public transport services. The Mooretown lands are situated in an accessible location within 3km distance from Swords town centre, which are served by Dublin Bus and Swords Express services.

The lands are also accessed via the recently constructed Mooretown distributor road and "Main Street" which is an east-west spine road in the centre of the overall land holding. More immediate local connections are also proposed to integrate the development with the adjacent permitted planning permission, "Phase 2" (Reg. Ref. F16A/0505), and provision is made for at least two other road connections to the east, thereby linking the zoned and undeveloped third-party lands that form the rest of the Mooretown townland. The excellent connectivity of the subject site, in line with the national and regional policy guidance, would allow for a reduced quantum of car parking space which consequently encourage green modes of transport.

Please refer to the enclosed Traffic and Transport Assessment report prepared by Waterman Moylan Consulting Engineers, and the Urban Design and Architectural Statement prepared by CCK Architects for further details in this regard.

3.0 MATERIAL CONTRAVENTION

As outlined above, the proposed development does not meet the threshold defined as car parking requirements in Fingal Development Plan 2017-2023, and therefore, materially contravenes the car parking standards of the Development Plan. It is further noted that despite outlining that absence of an LAP in this instance does not appear as a material contravention on the grounds of superfluous policy driven by the development status of the overall lands subject to that designation, this matter has also been included in the following section solely out of an abundance of caution. The proposed development in the context of existing trees/hedgerows on the application site may also appear to potentially materially contravene the objectives in relation to trees in the Development Plan, however, with regards to the condition of existing trees and mitigation measures proposed, it is suggested to not materially contravene the requirements of the Development Plan.

Section 4 of this Statement of Material Contravention provides justification for this deviation, suggesting the granting of permission for the development of the subject lands, on the grounds of locational attributes of the application site, in particular, its connectivity to the wider surrounding and level of accessibility to public transport corridors. This justification is based upon the requirements of Section 37(2) of the Planning and Development Act 2000 (as amended).

4.0 JUSTIFICATION

With respect to the car parking standards set out in the Fingal Development Plan, the Plan requires each dwelling to be provided with 2 no. car parking space which is being provided within this scheme. The residential car parking in the scheme, however, is provided at a reduced ratio. Thus, the overall car parking provision may be considered to potentially materially contravene the Fingal Development Plan 2017-2023 in this respect. The following provides an overview of the subject site location, and then justifies the deviation of scheme in car parking provision utilising the criteria set under Section 37(2)(b) of the Planning and Development (Housing) and Residential Tenancies Act, 2016.

4.1 Subject Site Location

The subject site is located to the south of the Rathbeale Road, Mooretown, Swords, Co. Dublin. The lands are part of a larger landholding within the ownership of Gerard Gannon Properties which are under construction or permitted for development. The application site comprises the balance of undeveloped lands in the most southern section of the overall landholding.

The proposed development is 3km from the centre of Swords, 12km from Ashbourne and just under 5km from the M1 motorway interchange. With an approximate area of 18.378 hectares (14.47ha developable lands when excluding Class 1 open space, the existing Main Street link road and off-road cycle paths, the off-site drainage works & Greenbelt lands), the subject site is bounded by the Brackenstown Village to the south, Phase 2 lands of the overall residential scheme (Reg. Ref. F16A/0505), and the school campus (Reg. Ref. F18A/0163) to the north, and rural and agricultural lands to the west. The lands are accessed from the Rathbeale Road via the Western Distributor Link Road, and its southern extension will form the western boundary of the subject site.

The application site therefore enjoys an excellent level of connectivity to the R125 (Rathbeale Road) which gives access to Swords town centre, and the adjoining developments that prevents creating an isolated community. Swords town centre is located c. 3km to the southwest of the lands.

The lands are served by Dublin Bus and Swords Express services as well as existing pedestrian and cycling connectivity throughout the phase 1 and 2 of the developing Oldtown-Mooretown lands to the north of the subject site, thus rendering the subject site easily accessible to pedestrians and cyclists. The site was formerly in agricultural use and is part of large greenfields.

The site was formerly in agricultural use and is part of large greenfields. The land slopes considerably from north-west to south-east by circa 22 metres, highlighting the topography as being a significant characteristic of the site.



Figure 3. Aerial View of the Location of the Subject Site (approximate boundaries of the subject site outlined in red)

4.2 Demonstration of Strategic and/or National Significance of the Scheme

It is submitted that the proposed development is both of strategic and national importance. The significant shortfall in housing output to address current and projected demand is of national importance, with the latest publication of DoHLGH, *Housing for All: A New Housing Plan for Ireland*, outlining that Ireland's housing system is not meeting the needs of enough of people, and therefore, it needs to increase new housing supply to an average of at least 33,000 new units per year over the next decade. This will include over 10,000 social homes each year over the next five years, with 9,500

of these being new-builds, and an average of 6,000 affordable homes for purchase or rent. This urgent need for housing in the State is particularly prevalent within the larger cities and towns, including Swords, which is located within the Dublin Metropolitan area, performing as a prime development centre. This is acknowledged by the Government as well as planning authorities and other such bodies. This crisis has led to a significant change in planning policy and guidance, which seeks to increase the output of housing with a focus being on increased densities within appropriate urban locations and zoned and serviceable sites. Key policy changes include:

- *Housing for All: A Plan for Ireland (2021);*
- *Project Ireland 2040 - National Planning Framework;*
- *Sustainable Urban Housing: Design Standards for New Apartments (2020); and,*
- *Urban Development and Building Heights Guidelines for Planning Authorities (December 2018).*

All of these documents acknowledge the current demand for additional housing and seek to bring forward the delivery of housing units. Locally, the lands are zoned for residential development and Swords is listed as a Key Town. The key tenet of the overall Settlement Strategy is the continued promotion of sustainable development through positively encouraging consolidation and densification of the existing urban built form, and thereby maximising efficiencies from already established physical and social infrastructure. Thus, it is submitted that the proposed development of 650 no. units, as the completion of the Mooretown lands, complies with the objectives to promote sustainable development through densification of the existing urban form and the provision of residential dwellings where there is a great demand for housing. This current proposal offers the opportunity to bring forward 650 no. residential units for Swords and the Metropolitan Dublin Area, and complete the development of the Mooretown lands. Furthermore, the proposed scheme is being progressed through the Strategic Housing Development planning process which, in itself, confirms the strategic importance of the current application, in accordance with Section 37(2)(b)(i).

The proposed scheme's contribution to the NPF National Strategic Outcome No. 1 in respect of delivering compact growth and urban regeneration specifically in this instance involving an efficient use of greenfield lands, in a key town, adjacent to public transport link and main access routes, further confirms the strategic nature of this development proposal. It is noted that the NPF sets a target for at least 40% of all new housing to be delivered within the existing built up areas of cities, towns, and villages on infill and/or brownfield sites. The provision of residential-led development on the subject site in this instance will therefore be in accordance with the NPF's target of 40% of new housing to be located within existing towns and for 50% of population growth to take place within Ireland's existing settlements, outside of the five larger cities.

In light of the foregoing, Downey submit that this current proposed development is strategic in nature and therefore is of strategic and national importance.

4.3 Conflicting Objectives

4.3.1 Local Area Plan (LAP) Designation

In accordance with Section 37(2)(b) of the Act and as demonstrated in the Sections 4.1 and 4.2 of this report, the subject site location and its strategic and national significance have been fully addressed.

The following illustrates that there are conflicting objectives in the development plan in terms of preparation of an LAP, also the proposed development is in accordance with the relevant national and regional planning policies, including Section 28 of the Planning & Development Act, 2000 (as amended). Furthermore, it is demonstrated that the scheme is justified by the pattern of the development within the Mooretown lands. This is submitted to provide for the current proposal to satisfy two of the Sections 37(2)(b) criteria.

It is evident that there are conflicting objectives within the Development Plan in terms of the preparation and adoption of LAPs prior to the submission of any planning application.

With regards to the preparation and adoption of LAPs, page 61 of the Development Plan states that *“an LAP is a statutory document prepared in accordance with Part II, Section 20 of the Planning and Development Act, 2000 (as amended). As a statutory document, the Planning Authority and An Bord Pleanála must take account of the provisions of the LAP when considering an application for planning permission for a development located within the area defined by a local area plan.”*

The Development Plan goes on to Page 91 to add, LAPs for these lands shall be prepared and agreed by the Planning Authority prior to the submission of any planning application. *“Objectives are provided detailing locations where Local Area Plans (LAPs) and Masterplans are required in a number of urban areas. Details of these LAPs and Masterplans are identified below. In accordance with Objectives PM13 and PM14 (Chapter 3, Placemaking) the LAPs and Masterplans for these lands shall be prepared and agreed by the Planning Authority prior to the submission of any planning application. LAPs and Masterplans shall provide for the phased development of subject lands as appropriate.”*

It is acknowledged that there is currently no LAP in place for Mooretown lands with the former Oldtown-Mooretown LAP having expired in July 2020. Irrespective of the existing circumstances of the lands and the need for real-time evaluation of policy, the proposed development may be considered to potentially materially contravene Objective PM13 and Objective SWORDS 27 of the Fingal Development Plan, in that an LAP is not in place for Mooretown lands by Fingal County Council.

It is further submitted that seeking to extend the former LAP by the Planning Authority prior to the lodgement of this planning application can prevent the delivery of housing on appropriately zoned lands, whereby regarding the existing circumstances of the lands and preparation of the new Fingal Development Plan 2023-2029, the Planning Authority are not in a position to further extend such a plan within the lifetime of the new County Development Plan. Objective SS02 of the Development Plan seeks to:

“Ensure that all proposals for residential development accord with the County’s Settlement Strategy and are consistent with Fingal’s identified hierarchy of settlement centres”.

The Core Strategy of the Development Plan (including Objective SS02) clearly seeks to have residential development take place during the lifetime of this Plan on appropriately zoned lands in the County. It is important to note that the current Development Plan is now under review and a new Plan is due to come into effect in February 2023.

Objective SS02A also reads as follows: Development will be permitted in principle on lands where there is a Local Area Plan or Masterplan in place and only when these lands are substantially developed

will permission be granted for the development of lands without such a framework. Should the lands identified within a LAP or Masterplan not come forward for development in the short term, consideration will be given to other lands.

Therefore, it is submitted to the Board that there are conflicting objectives in the Development Plan and objectives not clearly stated with regards to the subject lands.

Moreover, it is submitted that the proposed development is within the spirit of the former LAP, in line with the earlier phases of the Oldtown-Mooretown, and in accordance with the following national and regional planning policies, including guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended). It is noteworthy to mention that the Draft Fingal Development Plan 2023-2029 also mentions the significance of *“residential development in Swords and within the establishing areas to the west and south of the town including Oldtown-Mooretown and Ridgewood with the longer-term residential potential of the town focused on the strategic land bank of Lissenhall to the east. It is envisaged that this important reserve could accommodate a significant mixed-use employment district in addition to providing between 6,000 and 7,000 residential units”*.

Development Management Guidelines for Planning Authorities

The government’s guidelines on Development Management state that a statement of objectives in a development plan should not be regarded as imposing a blanket prohibition on particular classes of development and does not relieve the planning authority of responsibility for considering the merits or otherwise of particular applications. A brief reference to an objective or policy statement is not, therefore, adequate as a reason for refusal if it is not made clear what the objective is, how it would be contravened by the proposed development, and why that contravention would be contrary to the proper planning and sustainable development of the area. The Guidelines go on to add, development which is premature because of a commitment in a development plan to prepare a strategy, Local Area Plan or framework plan not yet completed should only be used as a reason for refusal if there is a realistic prospect of the strategy or plan being completed within a specific stated time frame.

Having regard to the advice given in the Development Management Guidelines and the absence of a demonstrable commitment by the planning authority to extend the former Oldtown-Mooretown LAP, it is submitted to the Board that permission should be granted for the subject application noting that the lands are zoned for residential development and that the proposals comply with the national, regional, and local planning policies and are within the spirit of the former LAP.

It is submitted that it would be inappropriate to refuse permission for the proposed development on the grounds that the development is premature pending the extension/adoption of an LAP by the Council noting that the lands are the last available/remaining lands for development at Mooretown and that the proposed development has been sensitively designed in keeping with the earlier phases of residential developments under construction at Mooretown and in a manner that does not prejudice the development of the surrounding lands.

National Planning Framework 2040

In terms of Dublin City and the Metropolitan Area, the National Planning Framework 2040 states that:

“At a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.”

“A major new policy emphasis on renewing and developing existing settlements will be required, rather than continual expansion and sprawl of cities and towns out into the countryside, at the expense of town centres and smaller villages. The target is for at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites. The rest of our homes will continue to be delivered at the edge of settlements and in rural areas.”

“A focused approach to compact, sequential and sustainable development of the larger urban areas along the Dublin – Belfast economic and transport corridor, along which there are settlements with significant populations such as Dundalk and Drogheda.”

National Policy Objective 3a: *“Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.”*

National Policy Objective 4: *“Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.”*

National Policy Objective 11: *“In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.”*

National Policy Objective 13: *“In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.”*

National Policy Objective 33: *“Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.”*

National Policy Objective 35: *“Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.”*

Downey are of the considered opinion that the proposed residential development is consistent with the Objectives of the NPF, which will help the Dublin Metropolitan area reach its targeted growth as outlined in the NPF. The proposed development will take place in a sustainable manner, on lands that are within the established urban settlement of Swords and can be considered contiguous to existing residential developments. This will take place through appropriate design standards and achieving the

correct density for the subject site. The development will not give rise to any negative effects on the environment and will support the economic growth and development of Swords.

As such it is respectfully submitted that the proposed development is in line with Government guidance and evolving trends for sustainable residential developments in urban areas.

Sustainable Residential Development in Urban Areas & Design Manual

The role of the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' is to ensure the sustainable delivery of new development in urban areas throughout the country. The Guidelines provide clear guidance on the core principles of design when creating places of high quality and distinct identity. The Guidelines recommend that planning authorities should promote high quality development in policy documents and through the development management process. The Guidelines should be read in tandem with the Design Manual which demonstrates good design principles and their application in designing new residential developments.

With regards to the preparation of LAPs, the guidelines note that LAPs are statutory documents and shall be made in respect of an area which firstly is designated as a town in the most recent population census (and where such a town is not designated as a suburb or environs), which has a population of more than 2,000 people and which is situated within the functional area of a planning authority. Outlined in the Guidelines, planning authorities have a statutory responsibility to plan for the sustainable development of their areas, primarily through the development plan process but also through local area plans.

With regards to the role of LAPs and significant of sequential development approach, the Guidelines note when land is zoned in a development plan without the benefit of a more detailed local area plan designation, the development plan should identify where practicable the sequential and co-ordinated manner in which zoned lands will be developed, so as to avoid a haphazard and costly approach to the provision of social and physical infrastructure.

The sequential approach as set out in the Department's Development Plan Guidelines (DoEHLG, 2007) specifies that zoning shall extend outwards from the centre of an urban area, with undeveloped lands closest to the core and public transport routes being given preference, encouraging infill opportunities, and that areas to be zoned shall be contiguous to existing zoned development lands and that any exception must be clearly justified in the written statement of the development plan.

It is submitted to the Board that the proposed development will provide for a sustainable residential development on appropriately zoned lands, which forms part of the overall Oldtown/Mooretown scheme as the third and final phase of the Mooretown lands, and thus, it facilitates developing residential zoned lands in a sequential and co-ordinated manner in the western development boundaries of Swords. It is also submitted that the overall layout and supporting documentation submitted with the application are within the spirit of the former LAP and consistent with the requirements of LAP as set out in the Development Plan.

In light of the above, it is respectfully requested that An Bord Pleanála have regard to the justification set out within this Material Contravention Statement and permit the potential material contravention of the Fingal Development Plan 2017-2023.

4.3.2 Car Parking Provision

In accordance with Section 37(2)(b) of the Act and as demonstrated in the Sections 4.1 and 4.2 of this report, the subject site location and its strategic and national significance have been fully addressed. The following illustrates that the proposed development is also in accordance with the relevant national and regional planning policies, including guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended). This is submitted to provide for the current proposal to satisfy three of the Sections 37(2)(b) criteria.

National Planning Framework

In terms of parking provision, the National Planning Framework 2040 encourage a performance-based criteria, appropriate to general location, e.g. city/town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc. Outlined in **National Policy Objective 13**, the NPF seeks:

“In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.”

Sustainable Residential Development in Urban Areas (2009)

In order to assist both planning authorities and developers in meeting certain standards in the design of residential development, the Guidelines aim to produce high-quality sustainable developments throughout the country, and inform the core principles of urban design when designing places of high quality and distinct identity. The Guidelines encourage realistic levels of car parking standards in developments having regard to proximity to public transport in order to avoid parked vehicles causing obstruction on residential streets in the evenings or at weekends.

Outlined in the Guidelines, new developments in central urban locations and in proximity to public transport corridors can feature appropriate reductions in car parking provision, where at the same time high-quality secured cycle parking and storage facilities are provided. As per the Guidelines:

“The quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.”

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)

The Guidelines acknowledge that:

“The quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may

be suitable for apartment development, broadly based on proximity and accessibility criteria.

1) Central and/or Accessible Urban Locations

In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.

2) Intermediate Urban Locations

In suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard.

3) Peripheral and/or Less Accessible Urban Locations

As a benchmark guideline for apartments in relatively peripheral or less accessible urban locations, one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required."

In that vein, the Guidelines states that *"for all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off, service, visitor parking spaces and parking for the mobility impaired. Provision is also to be made for alternative mobility solutions including facilities for car sharing club vehicles and cycle parking and secure storage. It is also a requirement to demonstrate specific measures that enable car parking provision to be reduced or avoided."*

It is respectfully submitted that the above-mentioned justification clearly demonstrates that the proposed development is consistent with national policy guidance where it clearly shows the reduced provision of car parking spaces per apartment/duplex unit reflects the location of the development in relation to its connectivity and access to public transport services.

The subject lands are located in accessible suburban location with connectivity to public transport corridor, which provides the lands with an excellent accessibility to Swords town centre via Dublin Bus services that run along Rathbeale Road, as well as Swords Express services facilitating access to Dublin City Centre and Dublin Airport.

As outlined, the proposed development provides for a total of 991 no. car parking spaces. Waterman-Moylan Consulting Engineers have prepared a Travel Plan and TTA that clearly outlines a justification for the level of car parking being proposed as part of this development. The Travel Plan is submitted under separate cover as part of the application and the Board are invited to refer to that report for further details.

5.0 CONCLUSION

It is respectfully submitted that the justification set out within this Statement, be read in conjunction with the accompanying Statement of Consistency with Planning Policy and the Supporting Planning Statement reports, which clearly demonstrate that the proposed Strategic Housing Development at south of the Rathbeale Road, Mooretown, Swords, Co. Dublin, is in accordance with the development management standards set out within the Fingal Development Plan 2017-2023, with the possible exception for that of the car parking standards, trees objectives, and the absence of a Local Area Plan. The following provides an overview of the potential material contraventions and the justifications outlined in this Statement:

- 1) Objectives within Fingal Development Plan 2017-2023 which requires the preparation and adoption of an LAP for Oldtown-Mooretown lands that has been formerly prepared for 2010-2016 and further extended up to July 2020 and has expired since. It is important to note that the Final Development Plan is currently under review with no mention of Oldtown-Mooretown lands for such a designation. However, it is submitted that the proposed does not materially contravene the Fingal Development Plan with respect to the current circumstances of the lands and by matters of planning permission precedent and the fact that the proposed scheme forms the third and final phase of Mooretown lands which has been designed within the spirit of the former LAP;
- 2) To facilitate the proposed development, removal group of trees/hedgerows are required, which as per the technical assessment, it is submitted to be of little or no potential either due to their physiological and/or structural condition and their removal would be seen necessary either now or in the short-term as the most appropriate management option. In addition, landscaping and new tree planting can help to mitigate the loss of trees and potentially, in the future, enhance local biodiversity, and canopy cover. This is submitted to not materially contravene the requirements of the Development Plan; and,
- 3) The subject site should be considered for development with the reduced quantum of car parking provision since this reduced rate of car parking space per apartment/duplex unit reflects the location of the development in relation to public transport services. This is noted to be in line with national policy, particularly the Design Standards for New Apartments (2020).

In light of the foregoing, it is respectfully requested that An Bord Pleanála have regard to the justification set out within this statement and permit the proposed car parking contravention of the Fingal Development Plan 2017-2023, having consideration to section 37(2)(b)(i) and (iii) of the Planning and Development Act, 2000 (as amended), specifically the conflicting objectives within Fingal Development Plan 2017-2023 insofar as the proposed development is concerned, the policies and objectives set out within the Section 28 Guidelines and noting the national importance of delivering housing given the current housing crisis.