



**ARMSTRONG
FENTON**
ASSOCIATES

**PROJECT: STRATEGIC HOUSING DEVELOPMENT AT
MINISTER'S ROAD, REGLES, LUSK, COUNTY DUBLIN.**

REPORT: MATERIAL CONTRAVENTION STATEMENT

APPLICANT: DWYER NOLAN DEVELOPMENTS LTD

DATE: 07|03|2022

**Planning &
Development
Consultants**



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1.0. Purpose of Report

- 1.1. This Material Contravention Statement (hereafter 'statement') has been prepared by Armstrong Fenton Associates, Planning & Development Consultants, on behalf of Dwyer Nolan Developments Ltd (the applicant) to accompany the application for a Strategic Housing Development submitted to An Bord Pleanála in respect of a site measuring c. 8.3 hectares, located north of Minister's Road, in the townland of Regles, Lusk, County Dublin.
- 1.2. The subject application comprises a Strategic Housing Development as defined within Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (hereafter 'Act of 2016') and has been prepared in accordance with the requirements of the Planning and Development (Strategic Housing Development) Regulations 2017.
- 1.3. Under Section 8(1)(a)(iv)(II) of the Act of 2016, an applicant for a strategic housing development is directed to submit a statement, and publish notice of same, indicating why permission should be granted in cases where a proposed development may materially contravene the relevant development plans and/or local area plan other than in relation to the zoning of the land. This statement is submitted to An Bord Pleanála in accordance with same.
- 1.4. In accordance with Section 9(6) of the Act of 2016, An Bord Pleanála (hereafter 'the Board') may grant permission for a proposed Strategic Housing Development that materially contravenes the development plan and/or local area plan, other than in relation to zoning, i.e. *"(6)(a) Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned."*
- 1.5. Furthermore, Section 9(6)(c) of the Act of 2016 states the Board may only grant permission for a development that materially contravenes a development plan (other than in relation to the zoning of the land) where it considers that, if Section 37(2)(b) of the Planning and Development Act 2000 (as amended) (hereafter 'Act of 2000') were to apply, it would grant permission for the proposed development.
- 1.6. Section 37(2)(b) of the Act of 2000 states that where a proposed development materially contravenes the development plan / local area plan, the Board may only grant permission 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."*
- 1.7. This statement has been prepared in order to address matters which may be deemed by the Board to materially contravene the provisions of the existing Fingal Development Plan 2017-2023 (hereafter 'FDP'), in accordance with the Act of 2016. In the context of Section 37(2)(b) of the Act of 2000, it is considered that the proposed development can be granted permission by the Board notwithstanding the potential material contraventions of the FDP detailed in Section 3 of this statement. Section 4 of this statement details the justification for same.



2.0 Proposed Development

2.1. The subject application for Strategic Housing Development is detailed in full below, as per the public notices:

Dwyer Nolan Developments Ltd. intends to apply to An Bord Pleanála for permission for a strategic housing development on a site located north of Minister's Road, in the townland of Regles, Lusk, County Dublin.

The development will consist of 312 no. dwellings, comprised of 205 no. 3 & 4 bed, 2 & 3 storey, detached, semi-detached & terraced houses, 40 no. 2 & 3 bed apartment / duplex units in 3 no. 3 storey blocks (comprised of Duplex Types A1, A2, B1 & B2), and 67 no. 1, 2 & 3 bed apartments in 2 no. blocks (comprised of Block C, being 3 storeys, and Block E, being 2-5 storeys over a basement level). The development also includes a 1-2 storey crèche (c. 484.6m²) with associated outdoor space to the rear.

Access to the development will be via 2 no. vehicular access points from Minister's Road, along with the provision of a roadside footpath and cycle path along the front of the site at Minister's Road.

The proposed development also provides for: (i) all associated site development works above and below ground, (ii) public open spaces (c. 0.99 ha / 9,999m²), (iii) communal open spaces (c. 1,849m²), (iv) hard & soft landscaping & boundary treatments, (v) basement & surface car parking (Total: 583 no. car parking spaces, including EV parking), (vi) basement & surface bicycle parking (Total: 498 no. bicycle parking spaces), (vii) bin & bicycle storage, (viii) public lighting, and (ix) 2 no. ESB sub-stations, all on an overall application site area of 8.3ha.



3.0 Material Contravention

3.1. In the context of Section 9(6) of the Act of 2016, the proposed development may be deemed by the Board to represent a material contravention of the FDP in relation to the quantity of public open space proposed, the quantity of car parking proposed, and the gross floor area standards of proposed apartments. These potential material contraventions are detailed in Sections 3.2. - 3.4. below.

3.2. Public Open Space Provision

3.2.1. The existing FDP sets out the criteria for public open space provision in Sections 3.5 and 12.7 of same.

3.2.2. Section 3.5 “Open Space” – “Quantity” (pg. 76 of the FDP) states:

“Provide sufficient quantities of open space and recreational facilities. For all developments with a residential component, the overall standard for public open space provision is a minimum 2.5 hectares per 1000 population. In general this shall be provided at a ratio of 75% Class 1 and 25% Class 2. In order to provide existing and future communities with adequate recreational and leisure opportunities, the Council will employ a flexible approach to the delivery of public open space and more intensive recreational/amenity facilities. It is the intention of the Council, however, to ensure, except under exceptional circumstances, public open space provision exceeds 10% of a development site area. The development site area cannot include lands zoned RU, GB, OS or HA.”

The following are stated objectives of the FDP in relation to public open space:

- **Objective PM52:** *“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 PM53:** *“Require an equivalent financial contribution in lieu of open space provision in smaller developments where the open space generated by the development would be so small as not to be viable”.*

3.2.3. Section 12.7 “Open Space” – “Quantity” (pg. 434 of the FDP) states:

“For all developments with a residential component, the overall standard for public open space provision is a minimum 2.5 hectares per 1000 population. In order to provide existing and future communities with adequate recreational and leisure opportunities, the Council will employ a flexible approach to the delivery of public open space and more intensive recreational/ amenity facilities. It is the intention of the Council, however, to ensure, except under exceptional circumstances, public open space provision exceeds 10% of a development site area. The development site area cannot include lands zoned RU, GB, OS or HA.”

The following are also stated objectives of the FDP:

- **Objective DMS57:** *“Require a minimum public open space provision of 2.5 hectares per 1,000 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 DMS57A:** *“Require a minimum 10% of a proposed development site area be designated for use as public open space.*

The Council has the discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities outside



the development site area, subject to the open space or facilities meeting the open space 'accessibility from homes' standards for each public open space type specified in Table 12.5.

The Council has the discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of Regional Parks in exceptional circumstances where the provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational / amenity facilities is not achievable. This is subject to the Regional Park meeting the open space 'accessibility from homes' standard specified in Table 12.5."

- **Objective DMS57B:** "Require a minimum 10% of a proposed development site area be designated for use as public open space.

The Council has the discretion to accept a financial contribution in lieu of remaining open space requirement required under Table 12.5, such contribution being held solely for the purpose of the acquisition or upgrading of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities subject to the open space or facilities meeting the open space 'accessibility from homes' standards for each public open space type specified in Table 12.5.

The Council has the discretion to accept a financial contribution in lieu of the remaining open space requirement to allow provision or upgrade of Regional Parks in exceptional circumstances where the provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities is not achievable, subject to the Regional Park meeting the open space 'accessibility from homes' standard specified in Table 12.5.

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."

3.2.4. Section 12.7 "Open Space" – "Sustainable urban Drainage Systems" (pg. 438 of the FDP) sets out the following objectives:

- **Objective DMS73:** "Ensure as far as practical that the design of SuDS enhances the quality of open spaces. SuDS do not form part of the public open space provision, except where it contributes in a significant and positive way to the design and quality of open space. In instances where the Council determines that SuDS make a significant and positive contribution to open space, a maximum 10% of open space provision shall be taken up by SuDS. The Council will give consideration to the provision of SuDS on existing open space, where appropriate."
- **Objective DMS74:** "Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution."

3.2.5. The proposed development provides for 6 no. areas of public open space totalling 9,999m² (0.99 hectares), which equates to c. 12% of the overall site / red line area of 8.3 hectares. The 6 no. areas of meaningful, useable, public open space proposed within the development, moving south to north, are as follows:

- Area 1 (on the south-western side) – 1,952m²
- Area 2 (along the south-eastern boundary) – 2,094m²
- Area 3 (eastern corner) – 1,935m²
- Area 4 (central open space) – 2,992m²
- Area 5 (north-western open space) – 594m²
- Area 6 (north-eastern open space) – 432m²
- **Total – 9,999m² / 0.99 hectares / c. 12% of the site area.**

3.2.6. As detailed in Sections 3.2.2. & 3.2.3. of this statement, the FDP requires a minimum public open space provision of 2.5 hectares per 1,000 population, based on 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.



The proposed development of 312 no. dwellings is comprised of the following housing typologies:

Dwelling Type	1 bed	2 bed	3 bed	4 bed	Total
Houses	0	0	161	44	205
Apartments	22	43	2	0	67
Duplex Apartments	0	20	20	0	40
Total	22	63	183	44	312

Table 1 - Proposed Schedule of Accommodation.

Therefore, the proposed dwellings produce the following persons/population, as per objective PM52 of the FDP:

- 85 no. 1 & 2 bed units = 127.5 persons
- 227 no. 3 & 4 beds = 794.5 persons
- **Total = 922 no. persons.**

At a rate of 2.5 hectares per 1,000 population, provided at a ratio of 75% Class 1 and 25% Class 2, the public open space (POS) requirement for the proposed development is therefore as follows:

- Class 1 POS = 17,287.5m² (1.73 hectares)
- Class 2 POS = 5,762.5m² (0.58 hectares)
- **Total POS requirement = 23,050m² (2.31 hectares), which equates to 27.8% of the site area.**

3.2.7. As detailed in Section 3.2.6. above, the proposed development does not provide for a quantum of public open space of 2.5 hectares per 1000 population as per objectives PM52 and DMS57 of the FDP. However, the proposed development does provide for the minimum public open space provision of 10% of the proposed development site area as per objectives DMS57A and DMS57B of the FDP. Furthermore, under objective DMS57B of the existing FDP, the Council has the discretion to accept a financial contribution in lieu of remaining open space requirement required under Table 12.5 of the FDP.

In relation to compliance with objectives DMS73 and DMS74 of the FDP, the proposals to place surface water attenuation systems under the open space provided has been previously accepted by An Bord Pleanála (under previous SHD application Ref. ABP-305713-19) and agreed in principle with Fingal County Council prior to submitting this application for permission – please refer to Appendix A of this statement for details.

Rationale for Proposed Quantum of Public Open Space

3.2.8. In assessing a previous application made on the subject site (under Ref. ABP-301001-18) the An Bord Pleanála Inspector stated that:

“the proposed scheme comprises the development of 228 houses on a site of 8.26 hectares. The applicant submits that this provides for a density of 27.6 units per hectare. The Guidelines for Sustainable Residential Development in Urban Areas, states under Section 5.11 that the greatest efficiency in land usage on outer suburban / greenfield sites will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare, that such densities should be encouraged generally, and that development at net densities of less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency. The proposed development at a density of 27.6 dwellings per hectare falls below the recommended density range.”



Whilst not stated nor referred to in the reason for refusal or in the Board's Direction, it is worth noting that in her assessment, the An Bord Pleanála Inspector also stated that:

"I am of the opinion that the proposed scheme incorporates an excessive amount of open space and that this has influenced the density yield. The open areas use up serviceable, developable lands in a location that is being promoted for residential development. The level of provision is based on the Development Plan requirement. Objective DMS57 of the Fingal Development Plan requires public open space provision at a rate of 25 square metres per person based on an assumed occupancy rate of 3.5 persons for dwellings with three or more bedrooms and 1.5 persons for a dwelling with two or fewer bedrooms. On this basis, the proposed development has an occupancy rate of 774 persons and a public open space requirement of c. 1.94 hectares, equating to 23% of the overall site area. Objective DMS57B requires a minimum of 10% of a development site to be designated for use as public open space and states that the Council has the discretion to accept a financial contribution in lieu of remaining open space. In this instance, it is proposed to meet the requirement within the site, with a total provision of 1.99 hectares of Class 1 and Class 2 Open Space. Notwithstanding the terms of the Development Plan, I consider the level of open space provision to be excessive and to conflict with national policy guidance in relation to the efficient use of residential lands. The resulting density clearly conflicts with national guidance in relation to density and in my opinion, would constitute a misuse of serviced lands within the development boundary of a Moderate Sustainable Growth Town. On the basis of the foregoing I recommend that permission be refused."

- 3.2.9.** We also note that the previous SHD application submitted for the subject site (under Ref. ABP-305713-19) proposed a total of c. 0.96 hectares of public open space, equating to 11% of the site area, to which An Bord Pleanála's Inspector stated the following in his assessment:

"The proposed quantum of public open space is considered acceptable given the context of the site and its proximity of designated area of open space. I note that the Fingal County Council Development Contribution Scheme 2016-2020 includes contributions for community and parks facilities and amenities"

An Bord Pleanála's Inspector also stated that:

"I note the Planning Authority's concerns relating to SUDS measures, however the provision of attenuation systems under areas of open space over attenuation tanks would generally be considered acceptable and taken into account as public open space. Therefore the overall percentage of public open space provided is unlikely to fall substantially below the required 10%."

Having regard to both previous assessments and decisions regarding the subject site, the current development proposal provides for 6 no. areas of public open space totalling 9,999m² (0.99 hectares), which equates to c. 12% of the overall site / red line area of 8.3 hectares.

- 3.2.10.** We note that objective DMS73 of the FDP states that: *"SuDS do not form part of the public open space provision"* and that a *"maximum 10% of open space provision shall be taken up by SuDS"*. We also note that objective DMS74 of the existing FDP states that *"Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution."*

Having regard to the Board's assessment of the previous applications for the subject site, under Ref.s ABP-301001-18 & ABP-305713-19, whereby the provision of open space to FDP standards was considered excessive and in *"conflict with national policy guidance in relation to the efficient use of residential lands"* and *"the provision of attenuation systems under areas of open space over attenuation tanks would generally be considered acceptable and taken into account as public open space"*, the current public open space provision is put forward for permission.

It should also be noted that the current public open space provision, as well as the proposed surface water drainage proposals, have been discussed with the Planning Authority prior to lodging this application in order to agree an acceptable approach. We attach in Appendix A of this statement the correspondence between the



Planning Authority and the applicant's consulting engineers, DBFL Consulting Engineers, and landscape architect, Ronan MacDiarmada & Associates. This correspondence details that the proposed surface water drainage proposals have been deemed acceptable, subject to a statement from the consultant engineer on the positioning of play equipment and trees on top of / beside the Storm tech units. (i.e. to ensure any uprights from play items / tree roots don't interfere with the storm tech structure).

To that end, we refer the Board to the submitted Engineering Services Report (Section 3.2.1 of same) prepared by DBFL Consulting Engineers which confirms that Storm tech units located under the public open spaces will be enclosed to prevent root invasion. The proposed systems will have more than 1.2m cover with trees planted above chosen for their accommodating root depth and, as such, with adequate soil cover, trees can be planted and play equipment installed in these open spaces above the Storm tech tanks. We also refer the Board to the submitted Landscape Rationale document and associated landscape drawings prepared by Ronan MacDiarmada & Associates which detail of the usability of the proposed open space and clearly outlines the quantum of useable open space provided, in particular submitted Drawing No's. 1578-06 & 1578-07 prepared by Ronan MacDiarmada & Associates provide for landscape sections through the proposed open space which demonstrate that the proposed SuDS areas in the areas of open space are useable as open space.

- 3.2.11.** It is submitted that, notwithstanding the potential material contravention of the development plan detailed in Section 3.3 of this statement, the proposed development can be granted having regard to guidelines issued under section 28 of the Act of 2000.

3.3. Car Parking Provision

- 3.3.1.** Under Section 12.10 of the FDP, the details of car parking standards are set out with Table 12.8 of the FDP including for car parking standards for new developments. The FDP states that:

“Car parking standards provide a guide as to the number of required off-street parking spaces acceptable for new developments. The principal objective of the application of car parking standards is to ensure that, in assessing development proposals, consideration is given to the accommodation of vehicles attracted to the site within the context of existing Government policy aimed at promoting modal shift to more sustainable forms of transport.”

Regarding car parking provisions, the FDP considers the subject site to be located within Zone 2.

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
Pre-school facilities / creche	Classroom	0.5		Education	Maximum

Figure 1 - Extract of Table 12.8 of the FDP- Car Parking Standards.



- 3.3.2.** Table 12.8 of the FDP includes car parking standards for new developments. The principal objective of the application of car parking standards is to ensure that in assessing development proposals consideration is given to the accommodation of vehicles attracted to the site within the context of existing Government policy aimed at promoting modal shift to more sustainable forms of transport. With regard to the residential element of the development proposal, the car parking standards of Table 12.8 of the FDP vary from 1 to 2 no. spaces per unit, depending on house type and size, with an additional requirement for visitor parking for apartments.
- 3.3.3.** In accordance with FDP standards, and based on the proposed dwelling mix, 410 no car parking spaces are required to serve the 205 no. houses proposed within the development. The proposed 205 no. houses are provided with 410 no. car parking spaces in compliance with the standards of the FDP. In addition, 16 no. visitor parking spaces are also provided. Table 4.1 of the submitted Traffic & Transport Assessment prepared by DBFL Consulting Engineers provides for details of car parking proposals within the development – please refer to same.
- 3.3.4.** For the 107 no. apartments and duplex units proposed within the development, based on the proposed dwelling mix, the FDP requires 160.5 no. car parking spaces, along with 21 no. visitor car parking spaces (i.e. 181.5 no. car parking spaces in total). The development provides for 134 no. car parking spaces for the proposed apartments and duplex units, along with 13 no. visitor car parking spaces (147 no. car parking spaces in total), which is a shortfall of 26.5 long term car parking spaces and 8 no. visitor car parking spaces (34.5 no. car parking spaces in total). However, the proposed residential car parking provision within the development has been designed to be consistent with the Guidelines on Apartment Sustainable Urban Housing: Design Standards for New Apartments (2020), which were published three years after the adoption of the FDP. The proposed development will result in residential car parking levels below the standards stated in the FDP and therefore the development proposal may constitute a material contravention of Table 12.8 of the FDP in this regard. Table 4.1 of the submitted Traffic & Transport Assessment prepared by DBFL Consulting Engineers provides for details of car parking proposals within the development – please refer to same.
- 3.3.5.** It should also be noted that 10 no. car parking spaces are provided for the proposed childcare facility within the development, which exceeds the required number of car parking spaces of Table 12.8 of the FDP (2 no. car parking spaces required based on 4 no. classrooms proposed). Table 4.1 of the submitted Traffic & Transport Assessment prepared by DBFL Consulting Engineers provides for details of car parking proposals within the development – please refer to same.
- 3.3.6.** Details of the car parking requirements and car parking proposals are clearly set out in the submitted Traffic and Transport Assessment prepared by DBFL Consulting Engineers – Section 4.4 of same - please refer to same for further details.
- 3.3.7.** It is submitted that, notwithstanding the potential material contravention of the development plan detailed in Section 3.3 of this statement, the proposed development can be granted having regard to guidelines issued under section 28 of the Act of 2000.

3.4. Apartment Standards

- 3.4.1.** Table 12.2 of the FDP details the minimum standards for apartments as follows:

Dwelling Type	Minimum Gross Floor Area (sq m)	Aggregate Living Area (sq m)	Aggregate Bed-room Area (sq m)	Storage Area (sq m)
3 bed	90	34	31.5	9
2 bed	73	30	24.4	6
1 bed	45	23	11.4	3



Figure 2 - Extract of Table 12.2 of the FDP – Apartments / Duplexes.

- 3.4.2.** As demonstrated above, the FDP only includes a single standard for two bed apartments which is consistent with the 2 bed / 4 person apartment similar to that provided for under the Guidelines on Apartment Sustainable Urban Housing: Design Standards for New Apartments, 2020 (hereafter “Apartment Guidelines”) i.e. 73m² minimum Gross Floor Area.
- 3.4.3.** Appendix 1 of the Apartment Guidelines also includes for a reduced sized two bed apartment (63m² Gross Floor Area) which is suitable for 3 persons. Section 3 of the Apartment Guidelines i.e. Specific Planning Policy Requirement 3 (SPPR 3) provides apartment design standards including minimum floor areas necessary to meet the space and amenity needs of families living in apartments as follows:

Specific Planning Policy Requirement 3

Minimum Apartment Floor Areas:

- | | |
|------------------------------------------|----------------|
| • Studio apartment (1 person) | 37 sq.m |
| • 1-bedroom apartment (2 persons) | 45 sq.m |
| • 2-bedroom apartment (4 persons) | 73 sq.m |
| • 3-bedroom apartment (5 persons) | 90 sq.m |

Figure 3 - SPPR 3 of the Apartment Guidelines.

- 3.4.4.** SPPR3 provides minimum floor areas for studios, one bed, two bed and three bed apartments, which are consistent with those stated in the FDP, however, Section 3.6 of the Apartment Guidelines specifically states that:

“planning authorities may also consider a two-bedroom apartment to accommodate 3 persons, with a minimum for areas of 63 square meters, in accordance with the standards set out in Quality Housing for Sustainable Communities...”

As such, Appendix 1 of the Apartment Guidelines includes a specific standard for 2 bed / 3 person apartments with a minimum floor area of 63m².

Accordingly, all proposed apartments within the development are fully consistent with the minimum floor space standards as detailed in Appendix 1 of the Apartment Guidelines.

- 3.4.5.** It is submitted that, notwithstanding the potential material contravention of the development plan detailed in Section 3.4 of this statement, the proposed development can be granted having regard to guidelines issued under section 28 of the Act of 2000.



4.0. Material Contravention Justification

4.1. Section 37(2)(b) of the Act of 2000 states that where a proposed development materially contravenes the development plan and/or local area plan, the Board may grant permission 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."*

For the reasons set out below, and having regard to Section 37(2)(b) of the Act of 2000, it is considered that the proposed development can be granted permission by the Board by reference to the sub-paragraphs (i) and (iii) above, notwithstanding the potential material contraventions of the existing FDP detailed in Section 3 of this statement. The following subsections detail the justification for same.

4.2. The Proposed Development is of Strategic or National Importance

4.2.1. National Planning Framework (NPF)

4.2.1.1. The strategic goals of the Government in relation to delivering new residential development, and their national importance, are reflected in the policies and objectives of the NPF. The NPF is the Government's high level strategic plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland, and the half a million extra homes needed in Ireland, by the year 2040.

The NPF sets out the importance of delivering new developments within existing urban areas by: *"making better use of under-utilised land and buildings, including 'infill', 'brownfield' and publicly owned sites and vacant and under-occupied buildings, with higher housing and jobs densities, better serviced by existing facilities and public transport."*

4.2.1.2. National Policy Objective 3a of the NPF states that it is national policy to: *"Deliver at least 40% of all new homes nationally within the built up envelope of existing urban settlements"*.

The subject site is an underutilised, greenfield site, zoned for residential land use. The proposed development caters for a net density of 37.5 dwellings per hectare across the entire site. It is therefore considered that the proposed development fully complies with National Policy Objective 3a of the NPF.

4.2.1.3. National Policy Objective 11 of the NPF states that: *"In meeting urban development requirements, there will be a presumption in favour of development that encourages more people, jobs and activity within existing urban areas, subject to development meeting appropriate planning standards and achieving targeted growth."*

The proposed development provides for a medium density residential development in an existing suburban area, that opens up these lands to an efficient land use, improved connectivity and accessibility and a wide range of housing typologies. The subject application is accompanied by a variety of documents which demonstrate how the proposed development meets appropriate planning standards and supports the targeted growth figures for Dublin. It is therefore considered that the proposed development fully complies with National Policy Objective 11 of the NPF.



4.2.1.4. A key priority of the NPF is the need to move away from rigid planning standards to a more flexible, performance based, design standards. National Policy Objective 13 states: *“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.”*

The proposed development is located in a suburban area on a greenfield site which is greatly underutilised given the locational context of same and the availability of existing infrastructure in the vicinity. It is considered that the site presents an ideal opportunity for development to a more efficient use, in compliance with national policy objectives. The proposed building heights range from 2 to 5 no. storeys with the proposed net density across the entire site being 37.5 dwellings per hectare. The proposed building heights and density are wholly appropriate given the contextual location of the subject site and the availability of public transport facilities in the area (Lusk train station approx. 3km away), and it is considered that the site can readily support same without any detriment to existing residential amenity in the area. It is therefore considered that the proposed development is in fully in accordance with the aforementioned guidance of the NPF and complies with National Policy Objective 13.

4.2.1.5. The NPF also states that: *“To avoid urban sprawl and the pressure that it puts on both the environment and infrastructure demands, increased residential densities are required in our urban areas.”*

In accordance with the NPF’s strategy of compact growth, i.e. 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”*, it is proposed to develop new homes which will provide a continuous built form adjacent to the existing built up area, therefore, in accordance with National Policy Objective 35, the proposed development will increase residential density within an existing settlement. Furthermore, in accordance with National Policy Objective 33 i.e. *“Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”*, new homes will be provided at a sustainable location, with access to existing services and facilities, in Lusk (within c. 1.5 km), with proposed enhanced pedestrian / cyclist paths proposed along Minister’s Road forming part of the overall development proposal.

4.2.1.6. The proposed residential development, on an underutilised greenfield site, represents an ideal opportunity to provide for increased densities and increased heights in accordance with the NPF objectives, without detriment to existing residential amenity in the area. The NPF places a strong emphasis on the need to increase building heights in appropriate locations, within existing urban centres. Given the contextual location of the subject site, it is considered that the proposed development, being located within the existing suburban environs of Lusk is wholly appropriate in terms of height and density and ought to be granted permission as it supports the national policy objectives of the NPF.

4.2.2. Rebuilding Ireland – Action Plan for Housing and Homelessness

4.2.2.1. The strategic housing development application process was introduced as part of the Government’s Rebuilding Ireland programme to accelerate delivery of larger housing proposals to alleviate the pressures on housing supply in the country. The delivery of new homes in appropriate locations across the country is a fundamental principle of Rebuilding Ireland, with the programme setting out a range of measures to facilitate the construction of new homes and an increase of social housing.

Rebuilding Ireland was launched in 2016 with the objective to double the annual level of residential construction to 25,000 homes and deliver 47,000 units of social housing in the period to 2021, while at the same time making the best use of the existing stock and laying the foundation for a more vibrant and responsive private rented sector.



Rebuilding Ireland is set around 5 no. pillars of proposed actions, with Pillar 3 seeking to – Build More Homes: Increase the output of private housing to meet demand at affordable prices. Lusk is identified as being a Moderate Self-Sustainable Growth Town by the FDP and the proposed development on lands zoned for residential land use will reaffirm the town's role within the County.

4.2.2.2. The increased height and density put forward as part of this application for permission will deliver much needed housing within the Dublin Metropolitan Area in accordance with the aims of Rebuilding Ireland, and in particular Pillar 3, which seeks to build more homes – *“to increase the output of private housing to meet demand at affordable prices.”* It is considered that the proposed development fully supports the policies of Rebuilding Ireland by delivering 312 no. new homes in an existing urban area.

4.2.2.3. Furthermore, in accordance with Pillar 2 – Accelerate Social Housing- of the Rebuilding Ireland, 31 no. of the proposed dwellings are to be delivered for social housing in compliance with the requirements of Section 96 of Part V of the Act of 2000 (as amended).

4.2.2.4. Given all the above, it is considered that the proposed development is of strategic importance in delivering the national objectives of Rebuilding Ireland programme and ought to be granted permission.

4.2.3. Conclusion of Criterion of Strategic or National Importance – Section 37(2)(b)(i) of the Planning & Development Act, 2000 (as amended).

4.2.3.1. On the basis of all the forgoing in Section 4.2 of this statement, it is considered reasonable to conclude that the proposed strategic housing development is clearly of both strategic and national importance, supports the national planning policy and objectives of both Rebuilding Ireland and the NPF, and therefore fulfils the criterion under Section 37(2)(b)(i) of the Planning & Development Act, 2000 (as amended).

4.3. 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.

4.3.1. Eastern & Midland Regional Spatial & Economic and Strategy 2019 – 2031

4.3.1.1. The Eastern & Midland Regional Spatial & Economic and Strategy 2019 – 2031 (hereafter 'RSES') notes that the preferred spatial strategy for the Eastern and Midland region is the consolidation of Dublin plus the Regional Growth Centres of Athlone, Dundalk and Drogheda, supported by planned focussed growth of a limited number of self-sustaining settlements.

Lusk is located in the 'hinterland area' as defined by the RSES, which includes the northern part of county Fingal. Growth enablers for the hinterland area include:

- *To promote continued growth at more sustainable rates, while providing for increased employment and improved local economies, services and functions to allow towns to become more self-sustaining and to create the quality of life to attract investment.*
- *'Catch Up' investment to promote consolidation and improvement in the sustainability of those areas that have experienced significant population growth but have a weak level of services and employment for their residents.*



- *Diversification and specialisation of local economies with a focus on clustering, smart specialisation, place making and urban regeneration to create the quality of lie to attract FDA and indigenous investment and increase high value knowledge-based employment including second site and relocation opportunities.*
- *Promote the Region for tourism, leisure and recreational activities including development of an integrated greenway network while ensuring that high value assets and amenities are protected and enhanced.*

4.3.1.2. Section 4.7 of the RSES refers to Self-Sustaining Towns, of which Lusk is identified as one, as well as being one of the towns that has recorded the highest growth rates in the country over the last ten years. The RSES notes that such towns are important employment and service centres. The RSES also states that “*Self-Sustaining Towns are towns that require contained growth, focusing on driving investment in services, employment growth and infrastructure whilst balancing housing delivery*”. Lusk is identified in the RSES as a Self-Sustaining Town and the proposed development on lands zoned for residential land use will reaffirm the town’s role in the Hinterland.

The proposed development will deliver a high-quality residential development in proximity to local services and facilities within Lusk and its environs, as well as employment opportunities. The development of the lands at a sustainable density is in accordance with national strategic guidance and in accordance with the proper planning and sustainable development of the area.

4.3.2. Section 28 Ministerial Guidelines

JUSTIFICATION FOR PROPOSED DENSITY / PUBLIC OPEN SPACE PROVISION

4.3.2.1. Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009.

4.3.2.1.1. The role of the Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities, 2009, (hereafter ‘Guidelines’) is to ensure the sustainable delivery of new development throughout the country. These Guidelines provide guidance on the core principles of urban design when creating places of high quality and distinct identity. The Guidelines also recommend that planning authorities should promote high quality design in their policy documents and in their development management process. In this regard, the Guidelines are accompanied by an Urban Design Manual which demonstrates how design principles can be applied in the design and layout of new residential developments, at a variety of scales of development and in various settings.

The Guidelines support a plan-led approach to development as provided for in the Act of 2000. Section 2.1 of the Guidelines note that “*the scale, location and nature of major new residential development will be determined by the development plan, including both the settlement strategy and the housing strategy.*”

The Guidelines reinforce the need to adopt a sequential approach to the development of land and note in Section 2.3 that: “*the sequential approach as set out in the Departments 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...*”.

4.3.2.1.2. Taking the above into consideration, the subject site is a greenfield site zoned ‘RA -Residential Area’ in the FDP, which caters for new residential development. The FDP has adopted a sequential approach when zoning the land for development, therefore the location of the site and the land use zoning objective attached to same is appropriate for the proposed development.

The proposed development site can be described as an Outer Suburban / Greenfield Site in accordance with Section 5.11 of the Guidelines, which define such sites as: “*open lands on the periphery of cities or larger towns*”. The Guidelines state that “*the greatest efficiency in land usage on such lands will be achieved by*



providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares.”

Section 5.8 of the Guidelines recommends that *“increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station”*. This section of the Guidelines also states that *“in general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes”*. The subject site is approx. 3km west of the Lusk train station, therefore, it is considered that the appropriate density range for the subject site is 35-50 dwellings per hectare, with the proposed development providing for a density of 37.5 dwellings per hectare.

Whilst the issue of the proposed density of development is not considered to be a material contravention, the proposed density is directly related to the quantum of proposed public open space. The proposed net residential density of 37.5 units per hectare on a zoned (“RA”) site of 8.3 hectares, is considered acceptable in terms of the projected yield of residential land in Lusk in the county core strategy and the positioning of the town in the settlement hierarchy, the distance of the site from the town centre and public transport services and the surrounding context. The development would achieve a satisfactory balance between contributing to meeting the core strategy housing target for Lusk while ensuring that an appropriate quantum of development is directed to the town given its role as a hinterland town with a supporting role in accommodating population growth.

The planning history of the site provides a direct correlation between density and public open space provision on the site, particularly in trying to achieve the required 2.5 hectares of public open space per 1,000 population, which in this instance would equate to c. 28% of the site being delivered as open space, which in the past was not considered appropriate nor an efficient use of zoned land. In achieving an appropriate scale of housing and mix of typologies, as well as complying with the required density range of 35-50 units per hectare, the proposed development of 312 no. units is put forward for permission. It is considered that 35-50 units per hectare standard, as set out in the Guidelines, is the most relevant for the purposes of assessing the appropriateness of the proposed density. As set out in the Planning Statement prepared by Armstrong Fenton Associates which accompanies the application, the net developable area of the subject site is 8.3 hectares which produces a net density of 37.5 units per hectare across the entire site, thus according with the guidance set out in Section 5.11 of these Guidelines. The proposed density is over and above the discouraged net density of *“less than 30 dwellings per hectare”*, as also set out in Section 5.11 of the Guidelines, but also meets the recommended minimum net density of 35 units per hectare.

4.3.2.1.3. The proposed site layout plan incorporates public open spaces which equate to c. 12% of the overall site area. This accords with Objectives DMS57A and DMS57B of the existing FDP, which requires *“a minimum 10% of a proposed development site area be designated for use as public open space”*. We also note that that Fingal County Council has the discretion to accept a financial contribution in lieu of remaining open space requirements. However, the proposed public open space meets the minimum standards for same as per the FDP and also realises a more efficient density of development that meets the requirements of the Guidelines.

Should the criteria of the FDP be applied to the proposed development in providing *“a minimum public open space provision of 2.5 hectares per 1,000 population”*, and using the basis of calculating same on an *“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”*, the proposed development produces an occupancy rate of 922 persons and a corresponding public open space requirement of c. 2.3 hectares, equating to c. 28% of the overall site area, which is an even higher quantum of public open space than the previous proposal which An Bord Pleanála’s Inspector deemed to be *“excessive and to conflict with national policy guidance in relation to the efficient use of residential lands”*.



4.3.2.1.4. In summary, the net density of the development now proposed equates to 37.5 dwellings per hectare and therefore (i) accords with the guidance contained in the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009, issued by the Department of Environment, Community and Local Government, which refer to providing net residential densities in the general range of 35-50 dwellings per hectare and (ii) addresses the previous reason for refusal no. 1 under Ref. ABP-301001-18.

JUSTIFICATION FOR PROPOSED CAR PARKING

4.3.2.2. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2020.

4.3.2.2.1. The Sustainable Urban Housing – Design Standards for New Apartments Guidelines, 2020, (hereafter ‘Apartment Guidelines’) set out alternative standards for apartments.

The Apartment Guidelines state 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”*.

In light of the above, the car parking provisions for the development seek to balance the requirements, as described in the FDP, and what is sustainable based on the criteria outlined in the Apartment Guidelines. This approach has been adopted for both the apartments and duplexes in the development.

4.3.2.2.2. Please note that the car parking proposed for the houses complies with the standards of the FDP.

For the 107 no. apartments and duplex units proposed within the development, based on the proposed dwelling mix, the FDP requires 160.5 no. car parking spaces, along with 21 no. visitor car parking spaces (i.e. 181.5 no. car parking spaces in total). The development provides for 134 no. car parking spaces for the proposed apartments and duplex units, along with 13 no. visitor car parking spaces (147 no. car parking spaces in total), which is a shortfall of 26.5 long term car parking spaces and 8 no. visitor car parking spaces (34.5 no. car parking spaces in total). For the proposed apartments and duplexes, the car parking provided for equates to 1.25 car parking spaces per dwelling, with an additional 13 no. visitor car parking spaces also provided for. However, the proposed residential car parking provision within the development has been designed to be consistent with the Guidelines on Apartment Sustainable Urban Housing: Design Standards for New Apartments (2020), which were published three years after the adoption of the FDP.

The proposed development will result in residential car parking levels below the standards stated in the FDP and therefore the development proposal may constitute a material contravention of Table 12.8 of the FDP in this regard. Section 4.4 of the submitted Traffic & Transport Assessment prepared by DBFL Consulting Engineers sets out a justification for the proposed car parking based upon the guidance outlined in the Apartment Guidelines - please also refer to same.

4.3.2.2.3. The Apartment Guidelines determine that car parking requirements *“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”* based on the following designations:

- Central and/or Accessible Urban Locations
- Intermediate Urban Locations; and
- Peripheral and/or Less Accessible Urban Locations

Central and/or Accessible Urban Locations are defined by larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport where the default



policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.

Intermediate Urban Locations are defined as suburban/urban locations that are 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). In such instances planning authorities are encouraged to consider a reduced overall car parking standard and apply an appropriate maximum car parking standard.

Peripheral and/or Less Accessible Urban Location are defined by locations that are peripheral or less accessible urban locations where 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.

4.3.2.2.4. For the purposes of the subject application, the application site is considered as a Peripheral and/or Less Accessible Urban Location. On such sites, the Apartment Guidelines require that 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 for apartments and duplex units. Therefore, the proposed development should require 107 no. long term car parking spaces per unit along with 31 no. visitor spaces, which equates to a total of 138 no. car parking spaces to serve the proposed apartments and duplex units within the development. The proposed development provides for 134 no. car parking spaces for the apartments and duplex units along with 13 no. visitor car parking spaces (147 no. car parking spaces in total) which meets the car parking requirements for a Peripheral and/or Less Accessible Urban Location as defined by the Apartment Guidelines.

4.3.2.2.5. It is considered that the level of car parking, in relation to apartment and duplex units, required under Table 12.8 the FDP is not consistent with more recent planning policy that seeks a performance-based approach appropriate to location, and a transition towards more sustainable travel patterns. It is submitted that the proposed development meets the requirements of the Apartment Guidelines to minimise and reduce car parking provision to facilitate sustainable residential densities and promote sustainable travel patterns. It is submitted that the proposed development should be granted having regard to guidelines issued under section 28 of the Act.

4.3.2.2.6. Details of the car parking requirements and car parking proposals are clearly set out in the submitted Traffic and Transport Assessment prepared by DBFL Consulting Engineers – Section 4.4 of same - please refer to same for further details.

JUSTIFICATION FOR PROPOSED APARTMENT SIZES

4.3.2.3. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2020 (i.e. the “Apartment Guidelines”)

4.3.2.3.1. Under Section 28 (1C) of the Planning and Development Act 2000 (as amended), Planning Authorities and An Bord Pleanála are required to comply with any specific planning policy requirements (SPPR's) of the guidelines in carrying out their function. SPPRs take precedence over any conflicting, policies and objectives of development plans and local area plans

4.3.2.3.2. The Apartment Guidelines include *Specific Planning Policy Requirement 3*, which sets out the following “Minimum Apartment Floor Areas” as follows:

- Studio apartment (1 person) - 37 sq.m
- 1-bedroom apartment (2 persons) - 45 sq.m
- 2-bedroom apartment (4 persons) - 73 sq.m
- 3-bedroom apartment (5 persons) - 90 sq.m



Section 3.6 of the Apartment Guidelines states: “Accordingly, planning authorities may also consider a two-bedroom apartment to accommodate 3 persons, with a minimum floor area of 63 square metres, in accordance with the standards set out in Quality Housing for Sustainable Communities (and reiterated here in Appendix 1). This type of unit may be particularly suited to certain social housing schemes such as sheltered housing”.

4.3.2.3.3. Table 12.2 of the provides minimum standards for apartments as follows:

Dwelling Type	Minimum Gross Floor Area (sq m)	Aggregate Living Area (sq m)	Aggregate Bed-room Area (sq m)	Storage Area (sq m)
3 bed	90	34	31.5	9
2 bed	73	30	24.4	6
1 bed	45	23	11.4	3

Figure 4 - Extract of Table 12.2 of the FDP – Apartments / Duplexes.

As demonstrated above, the FDP only includes a single standard for two bed apartments which is consistent with the 2 bed / 4 person apartment similar to that provided for under the Apartment Guidelines (i.e. 73m² minimum Gross Floor Area). Appendix 1 of the Apartment Guidelines also include a reduced size two-bed apartment of 63m² Gross Floor Area, which is suitable for 3 persons.

4.3.2.3.4. The proposed development provides for 8 no. 2 person 3 bed apartments in Blocks C & E which range from a minimum size of 72.1m² up to a maximum size of 87m², therefore all the proposed 2 person 3 bed apartments within the development exceed the minimum standard of 63m² set out in the Apartment Guidelines - this is clearly demonstrated in the submitted Housing Quality Assessment prepared by Armstrong Fenton Associates, please refer to same. Details of the proposed floor areas of the units are also set in Section 6.3 of the submitted Planning Statement prepared by Armstrong Fenton Associates.

4.3.2.3.5. Accordingly, all apartment sizes are fully consistent with the minimum floor space standards as detailed in Appendix 1 of the Apartment Guidelines. It is submitted that the proposed development can be granted having regard to guidelines issued under section 28 of the Act.

4.3.3. Conclusion of criterion of 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 - – Section 37(2)(b)(ii) & (iii) of the Planning & Development Act, 2000 (as amended).

4.3.3.1. On the basis of all the forgoing in Section 4.3 of this statement, it is considered reasonable to conclude that the proposed strategic housing development complies with the provisions and guidance of the current regional spatial and economic strategy for the area and is clearly in compliance with the aforementioned Section 28 guidelines, and therefore fulfils the criterion under Section 37(2)(b)(iii) of the Planning & Development Act, 2000 (as amended).



5.0. Conclusions

- 5.1. In summary, it is submitted that the proposed development can be granted permission, notwithstanding that An Bord Pleanála may consider the proposed development to be a material contravention of the existing Fingal Development Plan 2017-2023, and its objectives/standards in relation to open space, car parking, and apartment sizes.
- 5.2. It is considered that under Section 37(2)(b)(i) of the Planning & Development Act 2000 (as amended) that the Board can grant permission for the proposed development having regard to the strategic national importance of delivering new housing on sites in appropriate locations
- 5.3. It is also considered that under Section 37(2)(b)(iii) of the Planning & Development Act 2000 (as amended) that the Board can grant permission for the proposed development having regard to the proposed development's compliance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020), and by reference to the policies of the government stated at Objectives 3a, 11, 13, 33 and 35 of the National Planning Framework. It is considered that the proposed density, open space, car parking and apartment sizes are in keeping with the proper planning and sustainable development of the area and can therefore be granted permission.



APPENDIX A

**Correspondence between the application project engineers DBFL and Fingal County Council re:
proposed surface water attenuation measures**



From: Phillip Grobler <Phillip.Grobler@fingal.ie>
Sent: Thursday 17 February 2022 10:14
To: Laura McLoughlin - DBFL Consulting Engineers <Laura.McLoughlin@dbfl.ie>; Ryan Parkes - DBFL Consulting Engineers <Ryan.Parkes@dbfl.ie>
Cc: Ronan Mac Diarmada <ronan@RMDA.ie>
Subject: RE: 170006 - Residential Development Lusk

Hi there Laura & Ryan,

From a water services perspective the proposal is acceptable. Gemma (Parks Dept) had the following comment:

“In relation to the proposed surface water drainage proposals -this area acceptable subject to a statement from the consultant engineer on the positioning of play equipment and trees on top of / beside the Storm tech units. (i.e. to ensure any uprights from play items / tree roots don't interfere with the storm tech structure)”

I suppose what Gemma is referring to is a design statement from the Stormtech manufacturer regarding the positioning of trees, play equipment and such like. A detailed and coordinated green/blue plan should also be submitted, in coordination with Ronan's team.

Regards, Phillip

From: Laura McLoughlin - DBFL Consulting Engineers <Laura.McLoughlin@dbfl.ie>
Sent: Thursday 3 February 2022 12:21
To: Phillip Grobler (Phillip.Grobler@fingal.ie) <phillip.grobler@fingal.ie>
Subject: FW: 170006 - Residential Development Lusk

Hi Philip,

Apologies, that was a typo – we are using the MC-4500 in the northern attenuation system but have had to use the SC-740 in the south due to cover restraints.

I have attached the revised pdf which shows the greenroofs and have updated the attenuation layout to illustrate the planned areas of exclusion for tree planting – this idea/dimensions etc. will be finalised with the Stormtech manufacturer during the detailed design stage.

Let me know if you have any further queries. I am available for a call all this week.

Thanks,
Laura

From: Phillip Grobler <Phillip.Grobler@fingal.ie>
Sent: Thursday 3 February 2022 11:12
To: Laura McLoughlin - DBFL Consulting Engineers <Laura.McLoughlin@dbfl.ie>
Subject: RE: 170006 - Residential Development Lusk

Hi Laura,

I note you're using the SC-740 and not the MC-4500 units – I assume that you don't have adequate depth/cover to go for the deeper units? Regrettably this doesn't reduce the footprint as initially hoped.



I don't see any reference to green roofs on either your or the landscape drawing – can you clarify the extent of the green roofs please?

I'll discuss the landscape drawing with Gemma and revert. I think the extend of the u/g Stormtech and its location relative to the play areas will remain a concern.

/p

From: Laura McLoughlin - DBFL Consulting Engineers <Laura.McLoughlin@dbfl.ie>
Sent: 01 February 2022 16:34
To: Phillip Grobler <Phillip.Grobler@fingal.ie>
Cc: ronan Mac Diarmada <ronan@RMDA.ie>; Martin Redmond <martin@RMDA.ie>
Subject: RE: 170006 - Residential Development Lusk

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Hi Philip,

Following your email below, please see attached our final surface water drainage proposal for your preliminary approval. As you will see we have been able to design out the use of above ground basins by incorporating Stormtech attenuation systems, permeable paving, tree pits, swales and green roofs.

We will be including a build out in the centre of the attenuation to allow for a large tree to be planted. Dimensions etc. will be determined at detailed design stage.

We trust this satisfies both the Drainage and Parks Departments, however, if you have any queries please let me know.

Kind regards,
Laura

From: Phillip Grobler <Phillip.Grobler@fingal.ie>
Sent: Friday 14 January 2022 12:48
To: Laura McLoughlin - DBFL Consulting Engineers <Laura.McLoughlin@dbfl.ie>; Ronan Mac Diarmada <ronan@RMDA.ie>
Subject: FW: 170006 - Residential Development Lusk

Hi there Laura and Ronan,

Following an internal meeting this morning I can confirm that Stormtech will now be considered as an acceptable option for this development, including the Taking-in-Charge thereof. In terms of the County Development Plan and its objectives there is however still an issue with having SuDS features below a POS, and although ABP has indicated previously that the issue of usability should come into play here, it will nevertheless be beneficial to design the below ground components with this in mind.

As usual we would like to see a full array of SuDS features contributing to the treatment train approach, including swales, bio-retention areas, integrated tree pits, green roofs, etc.

It may be useful to have a follow-up meeting once the design has been sufficiently progressed. We would be keen to see the impact of the Stormtech on the location of the playground, landscaping in general but specifically on



large trees, above ground basin requirements and its details, etc. Gemma has also again voiced concern regarding the maintenance of swales so the location and detail of these would need careful consideration.

/p

From: Phillip Grobler
Sent: 12 January 2022 17:59
To: Laura McLoughlin - DBFL Consulting Engineers <Laura.McLoughlin@dbfl.ie>
Subject: RE: 170006 - Residential Development Lusk

Hi Laura,

Just to be clear; our preference is always for natural gravel filled attenuation due to its benefits in terms of water quality, followed by Stormtech (or equivalent), and lastly concrete tanks. In this instance though a case can be made for Stormtech which I reckon overall yields a better final product.

We will have another chat internally before reverting with our preferred options.

/p

From: Laura McLoughlin - DBFL Consulting Engineers <Laura.McLoughlin@dbfl.ie>
Sent: 12 January 2022 17:35
To: Phillip Grobler <Phillip.Grobler@fingal.ie>
Subject: RE: 170006 - Residential Development Lusk

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Hi Philip,

Yes, subject to detailed design, the above ground storage in both areas may be remove from the drainage strategy. We had shown above ground basins with an earlier design because that was what was agreed previously (it's been a year or two since then). Our client is only interested in systems that will be taken in charge, hence the proposal of stone with above ground basin. However, if you can provisionally approve or note subject to Conditions we will go ahead with the Stormtech system of attenuation.

We should be able to either remove or greatly reduce the above ground storage in the southern area also. I will forward you the final detailed design to approve once complete, prior to submission.

Let me know if there is anything else I can clarify.

Thanks,
Laura

From: Phillip Grobler <Phillip.Grobler@fingal.ie>
Sent: Friday 19 November 2021 18:27
To: Laura McLoughlin - DBFL Consulting Engineers <Laura.McLoughlin@dbfl.ie>
Cc: Gemma Carr <Gemma.ECarr@fingal.ie>; Ronan Mac Diarmada <ronan@RMDA.ie>; Linda Lally <Linda.Lally@fingal.ie>
Subject: RE: 170006 - Residential Development Lusk



Hi there Laura,

I think in this instance there's certainly a case to be made in favour of Stormtech (or similar). It would be most helpful if a design could be prepared using (i) Stormtech (or similar) in e.g. the northern basin area only combined with traditional gravel in the southern basin and (ii) exclusively Stormtech (or similar), complete with layout drawings indicating the effect on the open space areas. Impacts associated with the reduction in excavation, transportation, disposal, importation, etc as well as landscaping, biodiversity, amenity etc impacts should then be used to compare each option objectively. Once the use of Stormtech (or similar) can be properly justified it would help to argue the case for having it Taken-in-Charge. This may or may not apply to permeable paving/porous asphalt too – perhaps Linda can advise here?

There might be scope for some SuDS in the triangular shaped green space behind Swale No.7.

I' am happy to meet but I think at this stage it imperative that the comparative designs be progressed.

Regards, Phillip

From: Laura McLoughlin - DBFL Consulting Engineers <Laura.McLoughlin@dbfl.ie>
Sent: 17 November 2021 17:24
To: Phillip Grobler <Phillip.Grobler@fingal.ie>
Cc: Gemma Carr <Gemma.ECarr@fingal.ie>; Ronan Mac Diarmada <ronan@RMDA.ie>
Subject: 170006 - Residential Development Lusk

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Phillip,

Following on from the pre-planning meeting on 29th September 2021 for the proposed development at Minister's Road Lusk (ABP Ref: 310654-21) please see the attached DRAFT surface water design for the scheme.

As can be noted, in order to be eligible for taken in charge we have shown a stone attenuation system below the proposed detention basins in the north and south of the site. Due to the low porosity value (40%) of the stone and the availability of space we will have a depth of water in the basins of 766mm (north) and 323mm (south) for the 1 in 100yr event plus 20% climate change. As a result we will have to amend the surrounding road and finished floor levels to accommodate the building of these basins. And in doing so may have to reduce the number of swales provided on these open space areas.

Is there a possibility of providing a tanked attenuation system below the detention basin in the northern section of the site and have this taken in charge? This would allow more underground storage and a smaller footprint/ depth of basin required in both areas?

As the water entering this the northern attenuation passes through the southern catchment basin, the run-off will still benefit from the SuDS measures stone will present with additional time for settlement in the northern tank.

On a separate note, is there a possibility of FCC taking in charge areas of permeable paving?

I have included Gemma Carr (FCC Parks) and Ronan Mac Diarmada (Landscape Architect) in this email as the issue of open space was I big ticket item at the Pre-App meeting with the Board so I would appreciate us being able to come to an agreeable solution for all parties.

If required, I can organise a Teams meeting to discuss the above and talk through any other possibilities we might



have. Would all parties have any availability next week? Any day other than Tuesday I am free.

If you have any questions or require anything further to facilitate your decision please contact me.

Kind regards,
Laura

Laura McLoughlin
Senior Engineer Civils

+ 353 1 4004000



Laura.McLoughlin@dbfl.ie



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www.dbfl.ie

Civil, Structural & Transportation Engineering

