

DOWNEY

29 Merrion Square, D02RW64



Statement of Response to An Bord Pleanála Pre-Application Consultation Opinion

**Proposed Strategic Housing Development,
Lands at Auburn House (a Protected Structure),
Malahide, Co. Dublin
Applicant: Kinwest Ltd.**

April 2022

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1.0 INTRODUCTION

This **Statement of Response**, prepared by Downey, 29 Merrion Square, D02RW64, accompanies a planning application to An Bord Pleanála for a proposed strategic housing development on lands at Auburn House (Protected Structure), Little Auburn and Streamstown off the R107 Malahide Road/Dublin Road and Carey's Lane, Malahide, Co. Dublin.

Following consultation with Fingal County Council under Section 247 of the Planning and Development Act, 2000 (as amended), a request to enter into pre-application consultation with An Bord Pleanála was submitted on 2nd November 2021, with An Bord Pleanála subsequently accepting the Section 5 pre-application consultation. The pre-application consultation meeting was then held remotely via Microsoft Teams on 25th January 2022. This meeting included representatives from An Bord Pleanála, Fingal County Council, the applicant and their design team.

On 2nd February 2022, An Bord Pleanála issued the notice of pre-application consultation opinion for the proposed development, under case reference ABP-311843-21.

Having regard to the above, the opinion states that An Bord Pleanála *“has considered the issues raised in the pre-application consultation process and, having regard to the consultation meeting and the submission of the planning authority, is of the opinion that the documents submitted with the request to enter into consultations constitute a reasonable basis for an application for strategic housing development.”* The opinion further states that, *“in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission”*, which is summarised as follows:

- 1) *Notwithstanding that the proposal constitutes a reasonable basis for an application the prospective applicant is advised to address the following in the documents submitted:*

- a) *Provide further justification in relation to Boards previous reason for refusal (ABP Ref. 309907-21). In this regard, the chosen location for the new entrance along the Malahide Road (R107), shall include a full assessment of all tree removal in conjunction with additional CGIs/visualisations as further justification for the overall design and layout, having regard to the impact on the sylvian character of the surrounding area.*

- b) *An updated Sunlight/Daylight/Overshadowing analysis including all relevant plans/ documentation showing an acceptable level of residential amenity for existing residents, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. This report should address the full extent of requirements of BRE209/BS2011, as applicable.*

- 2) *A Community Audit of the surrounding area.*
- 3) *A Taking in Charge Map.*

- 4) *Submission of an updated landscaping plan including the treatment of existing trees and woodland on the site, to include maps and drawings providing clarity regarding:*

i) Trees to be retained and / or removed and the condition of such trees.

ii) The rationale for removal – i.e., whether due to condition or development impacts.

iii) nature, extent and phasing of planting to be provided across the site.

A detailed woodland management plan should be provided which should identify specific measure and actions to ensure the long-term maintenance and protection of trees and woodland on the site. Responsibility for implementation of such plan should also be identified.

- 5) *The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018, unless it is proposed to submit an EIAR at application stage.*

This statement now sets out a response to An Bord Pleanála’s pre-application consultation opinion. This statement of response should be read in conjunction with all drawings and documentation submitted as part of this Strategic Housing Development application.

2.0 SPECIFIC INFORMATION TO BE SUBMITTED WITH THE PLANNING APPLICATION

2.1 Item 1: Justification in relation to the Boards previous reason for refusal

ABP Opinion 1(a)

“Provide further justification in relation to Boards previous reason for refusal (ABP Ref. 309907-21). In this regard, the chosen location for the new entrance along the Malahide Road (R107), shall include a full assessment of all tree removal in conjunction with additional CGIs/visualisations as further justification for the overall design and layout, having regard to the impact on the sylvian character of the surrounding area.”

Applicants Response

In response to this, the applicant and design team acknowledge that while it was considered that the proposed access was the most optimal solution for the site, a robust justification for choosing the option was not clearly set out as part of the previous application (Ref. 309907-21). It is important to note that the Board, in their decision to refuse permission under 309907-21, did not expressly state that access could not be provided from the R107 (Malahide Road), but rather the Board specifically stated in reason for refusal No. 1:

“The proposed development would situate a new entrance from Dublin Road, both detracting from the visual prominence of the existing historical entrance to the site (a curtilage feature of Auburn House a Protected Structure RPS No. 448) and resulting in

the removal of trees that contribute to a special character that is recognised as worthy of preservation in the County Development Plan”.

It is important to note the Board did not expressly state that no access could be provided from the Dublin Road (also known as the Malahide Road/R107). Rather they considered that the access would detract from the visual prominence of the existing historical entrance. Therefore, it is evident that further justification for providing an access from the R107 is required in order to enable the Board to make an evidence-based decision on the access proposed.

Similarly, the Board did not consider that the access materially contravened the Development Plan, including Local Objective 57, which states:

L.O. 57 – “New or widened entrances onto the Dublin Road between Streamstown Lane and the Swords Junction will be restricted, to ensure the protection of the mature tree-lined approach along the Dublin Road to Malahide”.

The design team have looked at alternative access options from the Malahide Road. However, in the first instance, it must be acknowledged that any for the development of the lands would require either the widening of an existing access and/or the provision of new entrances onto the Malahide Road. The subject lands simply cannot be developed without alterations to the existing accesses onto the Malahide Road as there would not be sufficient capacity on Carey’s Lane/Streamstown as the single means of access and egress to serve the proposed development of these lands. Furthermore, access is not available from the Abington estate to the north as that is in private ownership and the owners had objected to the development of the previous application and it is understood that access would not be made available. In light of this, the Malahide Road (R107) is the only means of providing access/egress to any form of development at this site.

In light of this, it must be acknowledged that all options for the development of the lands would require either the widening of an existing access and/or the provision of new entrances on the Dublin Road. The lands simply cannot be developed without alterations to the existing accesses onto the Dublin Road. Having regard to the opinion of the Planning Inspector on the previous application and the decision of the Board, the design team have prepared a detailed assessment of all of the options available for accessibility onto the main Dublin Road and this is prepared in a stand-alone Development Access Report, which was prepared by Downey Planning and is submitted under separate cover. This report considers the impacts from the view of conservation and heritage, arboricultural, landscape and visual impact and also traffic safety and management. The proposed option, which is in fact a similar approach as previously submitted to the Board, to be the most suitable design for Auburn as the other options would result in even greater tree loss, long-term significant adverse impact on the historic gates and entrance to Auburn or give rise to serious traffic safety issues. It is submitted that the Local Objective 57 needs to be balanced against the need to provide safe means of vehicular access onto the lands in order to facilitate the development of these residentially zoned lands. In this regard, we would draw the Board’s attention to section 11.4.36 of the Inspector’s Report on ABP Ref. 310413-21 (Deer Park Howth), which states:

“While new openings in this historically significant feature should be avoided, the only option to create an access to this residentially zoned site, is to create a new opening in

the wall. There are no existing openings onto Howth Road that can be utilised and therefore the removal of part of the wall to facilitate access is an unavoidable consequence of developing the site. This will be inevitable no matter what type, or scale of development, is proposed on the site”.

In the event that the Board may consider the proposed access from the R107 to materially contravene Local Objective 57, the justification for the access is included within the Material Contravention Statement, which is submitted under separate cover.

In response to Item No. 1 of the Board’s Opinion, the applicant and design team have looked at alternative access options, including from the Malahide Road (R107) to serve the proposed development and have set this out in a stand-alone ‘Development Access Report’, which is submitted under separate cover. The report assesses 4 access options from the adjoining R107 Malahide Road/Dublin Road and was informed through a collaborative process involving the various design team members, including CCK Architects, Waterman-Moylan Consulting Engineers, The Tree File arborists, Sheehan & Barry Conservation Architects, The Big Space Landscape Architects, 3D Design Bureau (visualisers) and Downey Planning. The Development Access Report considered the impacts from the view of conservation and heritage, arboricultural, landscape and visual impact and traffic safety and management. The proposed option (Option 1), which is in fact the same approach as previously submitted to be the most suitable design for Auburn as the other options would result in a greater tree loss, long-term significant adverse impact on the historic gates and entrance to Auburn or give rise to serious traffic safety issues. The Development Access Report seeks to then provide justification to An Bord Pleanála as to why the current proposed access has been chosen and represents the most suitable location for the site.

It is submitted that the Local Objective 57 needs to be balanced against the need to provide safe means of vehicular access onto the lands to facilitate the development of these residentially zoned lands. In this regard, we would draw the Board’s attention to section 11.4.36 of the Inspector’s Report on ABP Ref. 310413-21 (Deer Park Howth), which states:

“While new openings in this historically significant feature should be avoided, the only option to create an access to this residentially zoned site, is to create a new opening in the wall. There are no existing openings onto Howth Road that can be utilised and therefore the removal of part of the wall to facilitate access is an unavoidable consequence of developing the site. This will be inevitable no matter what type, or scale of development, is proposed on the site”.

There are benefits and constraints associated with all four of the options assessed and all options will result in a change to the character of the setting of Auburn. It is also important to note that the character of the road will be altered regardless of this development as it is separately proposed to signalise the junction of the R107 and Back Road to facilitate a junction.

This report and assessment concluded that Option 1 (the new entrance and signalised junction at Back Road) is the most suitable and least impactful of the 4 reasonable options and alternatives considered. This can be summarised as follows:

- Option 1 is considered to be most sensitive to the woodland edge of the R107 and it ensures that the historic entrance to Auburn House is maintained intact and used most appropriately.
- Option 1 is by far the most appropriate from an engineering and traffic safety perspective. This was also made clear to the applicant and design team during the Section 247 pre-planning meeting with Fingal County Council and was essentially endorsed by the Roads Department of the Council at that meeting.
- Option 1 retains the best balance of mitigation against conservation impacts of the 4 options considered. It retains the original gateway in a viable use for pedestrians and bicycles and avoids any damage or alteration to the material, character or form of the existing gateway. The proposed new entrance does not compete visually with the retained existing entrance. The impacts on the setting of the estate are relatively modest and are the least impactful on the tree beltway of the options considered.

It is submitted that justification has been suitably provided to the Board as to why the subject lands must be served by either a new or widened access from the Malahide Road (R107) and as such there can be no avoiding the loss of some trees and canopy along this stretch of road. The Board are invited to refer to the Development Access Report and other documentation submitted with this application for further details.

ABP Opinion 1(b)

“An updated Sunlight/Daylight/Overshadowing analysis including all relevant plans/documentation showing an acceptable level of residential amenity for existing residents, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. This report should address the full extent of requirements of BRE209/BS2011, as applicable.”

Applicants Response

Waterman Moylan Consulting Engineers Limited have undertaken a Daylight/Sunlight Assessment which has been submitted as part of this application under a separate cover letter. Overall, across the scheme, 100% of the spaces analysed demonstrate compliance with the BRE daylighting levels. The Board are invited to refer to the Daylight/Sunlight Assessment for full details on the assessment and results.

2.2 Item 2: A Community Audit of the surrounding area.

Downey, Chartered Town Planners, have prepared a Community & Social Infrastructure Audit in support of the application, which has been submitted under a separate cover. This Audit has found that there is a suitable quantity and available capacity of early childhood care and educational facilities in the surrounding area to cater for the needs of the future residents of the scheme.

In terms of recreational amenities, there is a significant array and variety of indoor and outdoor recreational facilities and amenities within proximity of the site. Malahide Castle and Parkland is located within accessible distance of the subject site, which provides for a wide range of activities comprising of play areas, sporting facilities, a large children’s playground, golf course, sports grounds, and exercise trail. The Talbot Botanic Garden is also located within this Parkland, featured with a café and other facilities. Furthermore, as part of the overall scheme for the subject lands, the proposed development enjoys areas designated for public open space, which are intended to integrate with the existing outdoor spaces benefiting the lands. As such, the proposed open spaces will serve not only to the future residents of the development, but also to the wider community. The proposed scheme aims to integrate with the existing network of amenities through a hierarchy of public open spaces, which would further reinforce the existing amenities.

In relation to retail offerings, Malahide Town Centre, Swords Town Centre, and notable range of commercial and retail shops are within 2km radius of the subject lands, including several convenience stores and supermarkets. The proximity to the core retail area of Malahide, Swords, and the range of accessible retailer shops is expected to cater for the influx of new population into the area as well as current residents. However, it is expected that an increase in population to this area acts as a catalyst by creating further demand for the existing commercial sector.

The Board are invited to refer to the Community & Social Infrastructure Audit for further details.

2.3 Item 3: A Taking in Charge Map.

A Taking in Charge Map has been submitted as part of CCK Architects drawing pack. The Board are invited to Drawing No. 1902 P 036 for details.

2.4 Item 4: Submission of an updated landscaping plan including the treatment of existing trees and woodland on the site

ABP Opinion

“Submission of an updated landscaping plan including the treatment of existing trees and woodland on the site, to include maps and drawings providing clarity regarding:

- *Trees to be retained and/or removed and the condition of such trees.*
- *The rationale for removal – i.e., whether due to condition of development impacts.*
- *The nature, extent and phasing of planting to be provided across the site.*

A detailed woodland management plan should be provided which should identify specific measure and actions to ensure the long-term maintenance and protection of trees and woodland on the site. Responsibility for implementation of such plan should also be identified”.

Applicant's Response

In response to this, The Big Space Landscape Architects have prepared a number of landscape plans and reports in support of this application, including:

- Landscape Plan
- Detail Plan 1 & Detail Plan 2
- Proposed Tree Planting, Lighting & Services
- Planting Details
- Existing Trees and Proposed Planting

Furthermore, The Tree File Consulting Arborists have been engaged to prepare an Arboricultural Report, including Woodland Management Plan as well as Tree Surveys, Tree Constraints Plan, Tree Impact Plans and Tree Protection Plans. This is submitted under separate cover as part of the planning application. The Tree Woodland Management Plan, which is included in Appendix 1 of the arborist report, identifies specific measures and actions to ensure the long-term maintenance and protection of trees and woodland on the site.

Downey Planning wish to highlight that tree losses have been reduced significantly from the previous planning application, as stated within the Arborists Report:

“This updated assessment describes the Arboricultural improvements that have been gained over the earlier development proposals submitted in 2021 (ABP-309907-21). In this respect, development related losses have been reduced from 308no. items in the previous application, to 231no. items, representing an improvement of circa 25%”.

Tree retention has been optimised by landscape design which maximises use of already open space allows for the retention “as is” of large areas of tree supporting ground. There are some tree losses where elements of the site require fill and ground level modifications to achieve serviceable floor and road levels. As submitted with this application, the applicant will adopt a strategy to replant native tree species to counterbalance any loss. It is important to note that the proposals contained within the report also give rise to increased habitats and biodiversity benefits.

2.5 Item 5: The information referred to in Article 299B(1)(b)(ii)(II) and Article 299(B)(1)(c) of the Planning and Development Regulations 2011-2018, unless it is proposed to submit an EIAR at application stage.

Applicants Response

An EIAR has been prepared and is submitted as part of the application for the proposed development. Confirmation of the EIAR being uploaded to the EIA Portal is also included as part of this planning application.

3.0 NOTIFICATION OF AUTHORITIES

The Board also requested that, pursuant to Article 285(5) (a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the following authorities should be notified in the event of the making of an application arising from this notification in accordance with Section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

- Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media
- Heritage Council
- An Taisce
- An Comhairle Ealaíon
- Fáilte Ireland
- Irish Aviation Authority
- Irish Water
- Dublin Airport Authority

Downey Planning can confirm that the above list of bodies has all been notified of the making of this planning application and copies of the relevant correspondence to them are included under separate cover as part of this application to the Board.

4.0 CONCLUSION

This Statement of Response to An Bord Pleanála's Notice of Pre-Application Consultation Opinion indicates how the items outlined within An Bord Pleanála's Opinion have been fully addressed by the applicant and design team prior to lodgement of this application to An Bord Pleanála.

The document also addresses the specific information requested by An Bord Pleanála and identifies the source or location of the response within the accompanying planning submission documentation.

The relevant prescribed authorities identified in the pre-application consultation opinion from An Bord Pleanála have also been notified of the submission of the planning application in accordance with Section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

The changes pertaining to the design of the proposed development incorporated into the final scheme proposed are considered to result in a high-quality development now being presented to An Bord Pleanála for approval. It is submitted that the further documentation and additional studies undertaken and now being submitted, further support this application for strategic housing development at Auburn.

In light of the foregoing, it is respectfully submitted that the proposed development is consistent with the proper planning and sustainable development of the area, and is consistent with the relevant national, regional and local planning policies and guidelines.