

Development Plan Team,
Planning and Strategic Infrastructure Department,
Fingal County Council,
County Hall,
Main Street,
Swords,
Co. Dublin

20th December 2022

RE: Submission to Material Alterations of Draft Fingal County Development Plan 2023-2029

Dear Sir / Madam,

1.0 Introduction

In accordance with Sections 9, 10, 11 and 12 of the Planning and Development Act, 2000 (as amended), Downey Planning, Chartered Town Planners, 29 Merrion Square, Dublin 2, on behalf of our clients, Orchid Homes Ltd., 9 Clare Street, Dublin 2, and Ms. Geraldine Sweetman, [REDACTED], [REDACTED], in relation to lands at Flemington Lane, Balbriggan, Co. Dublin wish to make this submission on the proposed Material Alterations to 'Draft Fingal County Development Plan 2023-2029 to Fingal County Council.

This written submission is made in response to an invitation for comments from interested parties by Fingal County Council. This submission is being made within the specified timeframe for submissions i.e., 22nd December 2022, as set out on the Council's website.

This written submission relates to the proposed material alteration PA CH. 2.10 regarding the Table 2.16: *Schedule of Local Area Plans to be commenced over the Plan Period.*

2.0 Planning Legislation Context

The process for the preparation of the Draft Development Plan is contained within Section 11 of the Planning and Development Act, 2000 (as amended) and the consultation process of the Draft Development Plan is contained within section 12 of the Planning and Development Act, 2000 (as amended), which states:

"12 - (7) (ad) (ii) "that written submissions or observations with respect to the proposed material alteration or an assessment referred to in paragraph (aa) and made to the planning authority within a stated period shall be taken into account by the authority before the development plan is made".

This submission to the Material Alteration stage of the draft of the Development Plan is being made in accordance with Section 12 (7) (ad) (ii) of the Planning and Development Act, 2000 (as amended) and is being submitted within the specified timeframe (22nd December 2022) as set out on the website of the Fingal Development Plan 2023-2029.

3.0 Grounds of Submission

The Planning Authority have already proposed to amend the list of LAP’s to be prepared during the course of the new Development Plan. However, the lands at Flemington continue to be subject to this LAP requirement. It is hoped that consideration is given by Fingal County Council to remove the LAP designation from these zoned and serviced lands prior to the adoption of the 2023-2029 Fingal Development Plan. We are making the submission on Proposed Material Alteration **PA CH 2.10** – i.e., the list of LAPs to be commenced. Belcamp has been proposed to be removed and Swords added to the list. We support these alterations but strongly feel that Flemington should be removed.

PA CH 2.10: Section 2.4.1 Local Area Plans, page 56

Amend Table 2.16 as follows:

Table 2.16: Schedule of Local Area Plans to be commenced over the Plan Period

Swords
Lissenhall East
Flemington
Coolquay
Balscadden
Ballymadun
Belcamp

Figure 1. Proposed Material Alteration PA CH 2.10

As stated above, the lands have been zoned for residential development since the adoption of the 2011 Fingal Development Plan. Ever since being zoned, the development of these lands has also been subject to the preparation of a Masterplan.

Under the current 2017-2023 Fingal Development Plan, the subject lands are zoned RA (Residential Area). This zoning objective seeks to ‘provide for new residential communities subject to the provision of the necessary social and physical infrastructure’.

The lands are subject to the preparation of a Masterplan (MP4.A) under the current Development Plan. The Flemington Lane Masterplan (MP 4.A) states:

“Provide for architecturally designed buildings with high quality finishes; Prior to any proposed design or layout of development on these lands a detailed archaeological study shall be carried out; Allow low density housing only; Provide for significant traffic calming and re-alignment of Flemington Lane.



No Masterplan has been prepared or even commenced by the Planning Authority to date and it is noted that the Development Plan is due to expire in March 2023. Therefore, no Masterplan is expected to be prepared for these lands during the lifespan of the current Development Plan (which expires in April 2023).



Figure 2 – Land Use Zoning Map under the Draft Fingal Development Plan 2023-2029 (lands indicated by yellow outline)

Under the Draft 2023-2029 Fingal Development Plan, the Council now require that a LAP be prepared. This is a statutory document that must be prepared by the Council and placed on public display and be subject to public consultation. Given that a Masterplan has never been formally prepared or adopted for these zoned lands within a twelve-year period from 2011 -2022, the landowners have no faith that there are either the resources or desire to prepare a LAP for these lands within the Council. The net effect of the LAP requirement, if maintained, will be the sterilisation of these zoned and serviced lands for at least another six (6 no.) years, and more likely for a much longer period.

The Flemington Lane lands have been subject to two (2 no.) planning applications that relate to lands on the eastern and western sides of the overall lands (and are summarised below) and also is subject to pre-planning consultation with Fingal County Council. However, despite our repeated efforts to date, planning has not been achieved for residential development on any of the lands in question and not a single house has been built on the site during the past twelve years.

- **Reg. Ref. F18A/0133; ABP Ref. 301845-18** – Permission was refused to Marie Jones for a residential development of 74 no. units along with associated open space, engineering works and boundary treatment.
- **Reg. Ref. F18A/0137; ABP Ref. 301843-18** – Permission was refused to John and Cormac Smith for a residential development of 73 no. units along with associated open space, engineering works and boundary treatment.

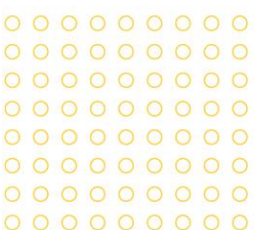
The reasons for refusal from the Board for both applications were identical. Reason No. 1 related to the fact that no ‘Masterplan’ had been prepared and so the applications would prejudice the future development of adjoining lands. This is despite the fact that the applicants had prepared their own Masterplan for the overall Flemington Lane lands in close co-operation with the planning and roads experts from Fingal County Council. Reason No. 2 related to the density being too low, an issue that can readily be resolved, and Reason No. 3 related to SuDS design, again an item that can be readily addressed. In correspondence to the Board the Planning Authority gave an assurance that the Flemington Masterplan would be completed by 2019, but no work was ever initiated to fulfil this commitment. It is evident from the above that the absence of a Masterplan, the preparation of which is entirely under the control of the Planning Authority, is the only real impediment to permission for residential development being granted on the lands.

Following this, landowners have engaged with the Planning Authority under Section 247 of the Act for pre-planning consultation between June 2021 and March 2022 and again in the July-December 2022 period. However, all of these efforts were unsuccessful. It has not been possible to bring forward a planning application for the lands. Again, the main stumbling block is the absence of a masterplan being prepared by the Council.

Our clients, as landowners, are seriously worried that the new Fingal Development Plan places an additional layer of bureaucracy and difficulty to the potential development of these lands. There is an underlying worry that the Council has neither the desire or resources to prepare a LAP and as such will effectively sterilise these zoned and serviced lands for at least another six years.

During the course of the preparation of the Draft 2023-2029 Fingal Development Plan, submissions were made seeking to have the LAP designation removed from the Flemington lands and, indeed, we note that the Office of Planning Regulator (OPR) also made a submission to the Draft Development Plan, suggesting that a LAP designation is not appropriate for this parcel of land.

Motions to have the Flemington LAP requirement removed were put forward and voted on by Councillors, but the Chief Executive recommended that no change be made to the Draft Plan. The vote on these motions was narrowly defeated and the Draft Plan that has gone on public display requires a LAP to be prepared for the Flemington site before any development can take place.



Section 2.1 of the OPR's submission to the Draft Development Plan stated in relation to the list of LAPs outlined in Table 2.16 of the Draft Plan (which includes Flemington), that:

"With the possible exception of Lissenhall East and Belcamp, the rationale for the selection of these areas is not clear given that the settlements are all designated rural villages with a population well below 1,500. The basis for the assertion that the rationale for the selection of these areas has been informed by the Act and Section 28 Guidelines is not therefore clear".

We concur with the OPR that there is no reasonable or logical reason for requiring that an LAP be prepared for these lands before a planning application can be brought forward. In light of the current housing crisis and the approach recommended by the OPR, we consider that a solution to this serious impediment needs to be urgently found. We therefore request that the LAP be removed from the Development Plan prior to it being adopted by Fingal County Council which would enable the construction of houses at Flemington to begin either in late 2023 or early in 2024.

We welcome the fact that the Planning Authority have removed the requirement for a LAP at Belcamp, on the basis that this site has commenced construction and therefore there is no requirement for an LAP to be prepared. The precedent of removing the requirement from Belcamp would then beg the question as to why place an extra layer of policy on Flemington that will only have the effect of delaying the delivery of housing. The landowners are actively trying to engage with Fingal County Council and prepare planning applications that will see the delivery of housing yet are continuously frustrated from doing so because of this requirement for an LAP. We would therefore implore the Council to consider the extent of the proposed Material Alteration PA CH. 2.10 and to remove the Flemington LAP from the list of LAPs to be prepared during the course of the 2023-2029 Fingal Development Plan.

4.0 Conclusion

This submission has been prepared by Downey Planning on behalf of our clients, Orchid Homes Ltd., and Ms. Geraldine Sweetman, regarding the proposed Material Alterations PA CH. 2.10 to the Draft Fingal Development Plan 2023-2029, which sets out the material alteration of the table of Local Area Plans to be prepared during the Plan period.

Downey considers that the proposed Material Alteration does not fully take into account the formal submission of the OPR in May 2022 and continues to require a Local Area Plan be prepared for the Flemington lands. No plan has been prepared by the Planning Authority during the 11 years within which these lands have been zoned and this has had an effect of preventing housing development from being delivered on these lands. We respectfully consider that there is no statutory requirement to prepare a LAP for these lands and given the fact that the relevant landowners are all working together towards delivering housing on these lands, this can best be provided for under the terms and



requirements of the development management process and planning applications, which can deliver a high-quality residential community in consultation with the Planning Authority.

In light of the foregoing, Downey Planning, on behalf of our clients, respectfully request that Fingal County Council consider the grounds of this submission to the Proposed Material Alterations to the Draft Fingal Development Plan 2023-2029 and further amend proposed Material Alteration PA CH 2.10 by removing Flemington from the list of LAPs to be prepared and making the associated change to the zoning map pertaining to the lands.

We would be grateful for a written acknowledgement of this submission at your convenience.

Yours sincerely,



Donal Duffy MIPI
Director
For and on behalf of DOWNEY

