



An  
Bord  
Pleanála

**Board Direction**  
**PL06D.246601**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on August 29<sup>th</sup> 2016.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

## **REASONS AND CONSIDERATIONS**

Having regard to;

- the residential zoning objective for the site set out in the Dun Laoghaire-Rathdown County Development Plan 2016-2022
- the proximity of the site to a high quality public transport corridor and the proposals for improved pedestrian and cycling permeability
- the availability in the area of a wide range of social infrastructure
- the density of the proposed residential development and the proposals for an Ecopark along the Ballyogan Stream
- the provision of part of the Clay Farm Loop Road
- the standards of amenity generally provided by the proposed residential units

it is considered that the proposed development will provide the basis for a sustainable residential community, will not give rise to traffic hazard or obstruction of road users at the Ballyogan Road and M50 and will not affect the operation of the Luas, will protect and enhance the ecology of the area, will accord with the provisions of the County Development Plan and will, otherwise, accord with the proper planning and sustainable development of the area.

### **Environmental Impact Assessment**

The Board considered that the Environmental Impact Statement submitted with the application, the report, assessment and conclusions of the Inspector with regard to this file and other submissions on file, was adequate in identifying and describing the direct and indirect effects of the proposed development. The Board completed an environmental impact assessment, and agreed with the Inspector in her assessment of the likely significant effects of the proposed development, and generally agreed with her conclusions on the acceptability of the mitigation measures proposed and residual effects. The Board generally adopted the report of the Inspector. The Board concluded that, subject to the implementation of the mitigation measures proposed, the effect of the proposed development would be acceptable. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Screening**

The Board noted the Appropriate Assessment Screening determination carried out by the Inspector. The Board concurred with the Inspector's determination, and adopted her conclusions and recommendations in this regard. The Board is, therefore, satisfied, having regard to the nature, location and scale of the subject development, that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on the Rockabill to Dalkey Island Special Area of Conservation (site code 003000), and on the Dalkey Islands Special Protection Area (site code 004172), or on any other European sites, in view of their conservation objectives.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the Planning Authority on the 13<sup>th</sup> of November 2015 and the 24<sup>th</sup> of February 2016 , except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The mitigation measures and commitments identified in the environmental impact statement, and other plans and particulars submitted with the planning application shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development

3. As per PA condition 4.

4. As per PA condition 6.

5. The access roads located between Block G and Houses 158-163 and between Block E7 and Houses 154-157 shall be constructed up to the site boundary with the adjoining land to the northwest with no 'ransom' strip remaining. Details to include a revised site layout plan, revised landscaping masterplan and revised taking in charge drawing pS(cfi) 09 shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.

**Reason:** In the interests of permeability and to ensure Phase 1c has direct access to the Loop Road located west of the site.

6. When required by the Planning Authority the applicant shall: (a) construct the westernmost access from Phase 1c to the Clay Farm Loop Road/Elmfield Road in accordance with DBFL Drawing No. 133094-2020-C and Drawing No. 133094-2040-A and (b) shall remove the temporary road linking Phase 1B and 1C and reinstate the open space in accordance with OMP Drawing No. pS(cfi)04a (Feb 2016) , BSM Drawing No. 310 (Insert showing Central Open Space with future footpath/cycle path after link road is removed). That the applicant shall lodge a Bond for €135,000.00 with the Planning Authority, as security for the construction of the permanent access to Phase 1C, and a Bond for €15,500.00 for the removal of the temporary road and the reinstatement of the open space in accordance with the above drawings. The Bonds shall not be released as and until all works have been fully undertaken to the satisfaction of the Planning Authority.

**Reason:** In the interests of providing the long term access solution in accordance with Drawing No. pS(cfi)04a (February, 2016) and in the interests of the proper planning and sustainable development of the area.

7. The temporary road linking Phase 1B and 1C shall be provided with a raised table using a shared vehicular / pedestrian material (such as setts, brick et) laid at the same height as the adjoining footpaths. This raised table shall be provided for the length of that section of the road that adjoins the open space to the north.

**Reason:** In the interest of pedestrian/cyclist safety.

8. As per PA condition 20.
9. As per PA condition 21.
10. As per PA condition 22.
11. As per PA condition 23.
12. As per PA condition 24
13. As per PA condition 25.
14. As per PA condition 26.
15. As per PA condition 27.
16. As per PA condition 28.

17. As per PA condition 29.
18. As per PA condition 30.
19. As per PA condition 31
20. As per PA condition 32.
21. As per PA condition 33.
22. As per PA condition 34
23. As per PA condition 35.
24. As per PA condition 36.
25. As per PA condition 38.
26. As per PA condition 41.
27. As per PA condition 48.
28. The pedestrian / cycle route K-L-L2-M shall be provided at the applicant's expense and shall be completed prior to occupation of any part of Phase 1B and to the detailed design of the Planning Authority. A temporary route shall be facilitate through phase 1A.

**Reason:** In the interest of residential amenity of existing future occupants and to promote sustainable modes of transport including use of LUAS.

29. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

30. i) The noise levels shall adhere to 'Guidance note for Noise, Licence, applications, surveys and Assessments in relation to scheduled activities' (NG4) as defined by the EPA in their 2012 EPA publication – a. Not contain any pure tones; b. Not exceed the background level by 10dB(A) or more or exceed NG4 limits whichever is the lesser. (background noise level is determined by LAeq,t, with the specific noise source off. Measured from the boundary of the nearest noise sensitive location. (ii) A programme of

continuous noise monitoring shall be carried out along the site boundary / noise sensitive locations by an appropriately qualified and experienced acoustic technician. This information needs to be stored on site by the applicant and made available to Dun Laoghaire-Rathdown County Council on request.

**Reason:** In the interests of the proper planning and sustainable development of the area.

**31. Standard taking in charge/ Management company condition**

- 32 The taking in charge drawing OMP(CFI)09 shall be agreed with the Planning Authority and shall include a minimum of 25m width road reservation which is free of development and shall make provision for a wider reservation width for the bridged section of the Clay Farm Loop Road.

**Reason:** In the interest of the proper planning and sustainable development of the area.

33. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 34 The details of the management and protection of open space areas numbered Area 1 (Ecopark), Area 3A, Area 3B, and Area 5 (as shown on BSM dwg. no. 310) during the construction phase shall be agreed in writing with the Planning authority prior to commencement of development.

**Reason:** In the interest of the protection of planned open space during the construction phase.

35. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

36. Bicycle parking spaces shall be provided within the site in accordance with requirements of the planning authority. The layout and marking demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interests of sustainable transportation.

37 **Standard Tree Bond Condition**

38. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development. This scheme shall include the following:-

(a) details of the development and management of the Ecopark

(b) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;

(c) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;

(d) details of proposed play equipment and street furniture, including bollards, lighting fixtures and seating;

(e) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of visual amenity.

39. A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

40. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

41. The design, layout and materials of construction of the junction of the proposed access road with the Ballyogan Road shall comply with the detailed requirements of the planning authority. Prior to commencement of development detailed plans and particulars to comply with this condition shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

42. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All



existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

43. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

44. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

45. Prior to the commencement of development the applicant shall submit to and agree in writing with the Planning Authority details of a public lighting scheme, which shall be designed in consultation with the Project Ecologist and in accordance with the recommendations and mitigation measures contained in the Environmental Impact Statement. This shall include lighting along all pedestrian and cycle routes through the open space except where this conflicts with ecology requirements.

**Reason:** In the interests of amenity and public safety and to minimise impacts on bats.

46. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

47. The developer shall pay to the planning authority a financial contribution in respect of the Luas B1 Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

48. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be determined by An Bord Pleanála.

**Reason:** To ensure the satisfactory completion of the development.

49. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within 8 weeks from the date of this order, the matter (other than a matter to which section 97(7) applies) may be referred by the planning authority or by any other prospective party to the agreement to the Board for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act, 2000, as amended, and of the housing strategy in the development plan of the area.

**Note:** In deciding not to accept the inspector's recommendation to omit 81 residential units and the proposed crèche the Board considered that the mitigation measures as proposed in the EIS and the Noise Impact Assessment were appropriate and in accordance with best practice and would ensure an acceptable level of residential amenity of future residents of the development.

Furthermore in deciding not to accept the inspectors recommendation to omit the temporary link road between phase 1(a) and 1(c) the Board considered that subject to the conditions as set out in this direction the proposed temporary access arrangement would not seriously injure the residential amenity of the area or future occupants and would therefore be in accordance with the proposed planning and sustainable development of the area.

**Board Member**

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Paul Hyde

**Date:** 29<sup>th</sup> August 2016