



An  
Bord  
Pleanála

**Board Direction**  
**PL 06D.247267**

---

The submissions on this file and the Inspector's report were considered at a Board meeting held on March 6<sup>th</sup>, 2017.

The Board had regard to all documentation on file, including the Inspector's report in respect of the applicant's Revised Design Option submitted with the first party appeal.

The Board noted that the 'Revised Design Option' had not been subject to revised public notices, was not the development that had been the subject of the planning authority's detailed consideration and decision and had not been the subject of the third party appeal. Accordingly, the Board considered it appropriate that it should consider, de novo, the original scheme, as submitted to the planning authority on June 28<sup>th</sup>, 2016. The Board was satisfied that the plan particulars lodged were adequate to enable the assessment of the proposed development.

The Board decided to grant permission for the scheme originally submitted to the planning authority subject to reasons, considerations and conditions.

At a further Board meeting on March 29<sup>th</sup>, 2017, the Board agreed the following Board direction.

### **Reasons and Considerations**

In coming to its decision the Board had regard, inter alia, to:

- the relevant national planning and transport guidance documents including, inter alia:
  - ‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities’ (DoEHLG, 2009)
  - Irish Design Manual for Urban Roads and Streets’ (DTTaS, and DoECLG, 2013) and
  - Rebuilding Ireland, Action Plan for Housing and Homelessness, (DoHPC&LG, 2016);
  
- the provisions of the Dun Laoighaire Rathdown Development Plan 2016-2022 including, inter alia:
  - the ‘A’ zoning objective on the site which seeks to ‘protect and improve residential amenity’ and where residential development is open to consideration;
  - Policy RES 3 in which it is stated “where a site is located circa 1 kilometre pedestrian catchment of a rail station, LUAS line, BRT, Priority 1 Quality Bus corridor and / or 500 metres of a Bus Priority Route, and / or 1 kilometre of a Town district centre, higher densities at a minimum of 50 units per hectare will be encouraged”;
  - Policy RES 5 regarding institutional lands in which it is stated that ‘in the development of such lands, average net densities should be in the region of 35-50 units per hectare. In certain instances, higher densities will be allowed where it is demonstrated they can contribute towards the objective of retaining the open character and/or residential amenities of the land’;
  - the objective to ‘protect and preserve Trees and Woodlands’ at this location; and
  - the Height Strategy set out in Appendix 9 which sets out the circumstances in which tall buildings could be accommodated within the built environment;
  
- the design, nature and extent of the proposed development as submitted to the planning authority;

- the location of the site within comfortable walking distance of the N11 Quality Bus Corridor and the Stillorgan Shopping Centre (a Town and District Centre);
- the pattern of development in the area;
- all submissions and documentation on file; and
- the report of the planning Inspector.

### **Appropriate Assessment Screening**

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the Inspector's screening assessment and conclusion, as set out in the Inspector's report, in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' Conservation Objectives. The Board did not consider that there were any significant differences between the scheme amended at appeal stage and the original scheme for the purposes of carrying out a screening for appropriate assessment and is satisfied that the development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site, in view of the sites' Conservation Objectives.

### **Environmental Impact Assessment Screening**

The Board had regard to the nature and extent of the development proposed, the documentation on file including submissions from the parties, the planning authority reports and the report of the Board's Inspector.

The Board examined the proposal in light of Schedule 5 of the PDA Regulations and decided that no mandatory EIA was required. The Board further assessed the proposed development in light of the criteria set out in Schedule 7 of the PDA Regulations and considered:

- the characteristics of the proposed development including the size of the housing scheme which is significantly sub-threshold (63 residential units versus a threshold of 500 dwelling units under Infrastructure Projects 10(b)(i) Part 2, Schedule 5, 'Development for the Purposes of Part 10') and considered that the development would not be likely to have significant effects on the environment in combination with other proposed development;
- the location of the proposed development on an existing zoned and serviced land outside and removed from any designated European Site; and
- the characteristics of the potential impacts of the proposed development which would principally arise from noise and traffic at demolition and construction stage and from potential impacts on residential amenity and the amenities of the area at operational stage;

and concluded that the proposed development would not be likely to have significant effects, direct or indirect, on the environment alone or in cumulation with other proposed plans or projects. The Board concluded that the preparation of an environmental impact statement is not required.

### **Proper Planning and Sustainable Development Conclusion**

It is considered that, subject to compliance with the conditions set out below, the proposed development would deliver an acceptable standard and density of residential development in close proximity to local retail services, facilities and a public transport corridor, would not seriously injure the visual or residential amenities of the area, would deliver a satisfactory level of public and private open space to future residents of the development, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health, would not seriously injure the built or sylvan character of the area, and would not seriously injure or interfere with the character of any protected structure or historic monument. The proposed

development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered the Inspector's report and her recommendation to refuse permission for the 'Revised Design Option' submitted at appeal stage on the grounds that she was not satisfied that there was;

'sufficient information in relation to proposals to alter the ground levels within the site in order to meet the drainage requirements of Dun Laoghaire Rathdown County Council available on file in relation to sources, nature and type of infill material to be used together with haulage routes to adequately assess the impact of this application'.

In deciding not to accept the Inspector's recommendation in respect of the 'Revised Design Option', the Board, in considering the original 63 unit development and all relevant associated documentation, was satisfied that there was enough information on proposed site levels to adequately assess the scheme. The Board considered that the proposed approach to filling on the site, which arises from the need to connect to the nearest foul public sewers with capacity to accommodate the development, was acceptable. The Board further considered that the materials required to raise ground levels, including the source, nature and type of infill material to be used together with haulage routes are matters that could be adequately addressed by means of a construction management plan condition. The Board considered that the level of fill required would give rise to limited additional short term localised impacts during construction stage, which is not unusual for a scheme of this nature, and would be acceptable.

In considering the planning authority's reason for refusal of planning permission the Board did not concur that the proposed development would materially contravene an objective of the Plan, i.e. 'to preserve Trees and Woodlands'. In coming to this conclusion the Board noted the numerous tree protection symbols on Map 2 of the County Development Plan in the area of the site and considered that the objective lacked specificity in respect of the number, quality and location of trees to be preserved. The Board also had regard to the applicant's general compliance with the

requirements set out in Section 8.2.8.6, 'Trees and Hedgerows', of the Development Plan which included the submission by the applicant of an arboricultural assessment and proposals for commensurate replacement planting.

Notwithstanding the Board's conclusion that no material contravention arises the Board went on, in the interests of completeness, to consider the provisions of S.37(2)(b) of the Act and considered that:

- Having regard to the objectives to preserve trees and protect and/or improve residential amenity and policies in respect of densification in appropriate locations (policy Res 3) and densities on institutional lands (policy Res 5) that there are conflicting objectives in the development plan and the objectives are not clearly stated insofar as the development is concerned; and
- Permission for the proposed development should be granted having regard to the 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (DoEHLG, 2009) which are supportive of the principles of increased residential density in appropriate locations.

The Board concluded, therefore, having regard to S.37(2)(b)(ii) and (iii) of the Act, that it was not constrained from granting planning permission in this case.

### **Conditions**

1. Standard Plan particulars as submitted to PA
2. External finishes general
3. Internal Road 1
4. Standard lighting
5. Cables

6. Estate naming scheme
7. Landscaped Open Space 2
8. Archaeological monitoring condition
9. Construction and Demolition Management Plan
10. Construction and Demolition Waste
11. Management company for areas not being taken in charge.
12. Part V
13. Bond security 1 – omit open space
14. S.48 unspecified

**Board Member**

---

Nicholas Mulcahy

**Date:** March 30<sup>th</sup>, 2017