



An  
Bord  
Pleanála

**Board Direction**  
**BD-003104-19**  
**ABP-303813-19**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21<sup>st</sup> May 2019.

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**

In coming to its decision, the Board had regard to the following:

- (a) the policies and objectives set out in the Gorey Local Area Plan 2017-2023;
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (c) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (d) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Housing, Planning and Local Government in March 2018;
- (e) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (f) the nature, scale and design of the proposed development;
- (g) the availability in the area of a wide range of social infrastructure,

- (h) the pattern of existing and permitted development in the area,
- (i) the submissions received, and
- (j) the report of the Inspector.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development (being a development of land within a zoned and serviced urban area), the Appropriate Assessment Screening Report submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment**

The Board completed in compliance with Section 172 of the Planning and Development Act 2000, an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of the proposed development on a partly greenfield and partly brownfield site within the key town of Gorey,
- (b) the environmental impact assessment report and associated documentation submitted with the application,
- (c) the submissions from the planning authority, and the prescribed bodies in the course of the application, and
- (d) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, identifies and describes

adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the environmental impact assessment report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

### **Reasoned Conclusions on the Significant Effects.**

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated, as follows:

- (a) A significant direct effect on land by the change in the use and appearance of a relatively large site from agricultural and brownfield to residential. Given the location of the site adjoining the built-up area of the town and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- (b) Potential significant effects on soil during construction due to the excavation and filling required to carry out the development, which will be mitigated by the re-use of some of the excavated material on the site, the export of other material to regulated facilities and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- (c) Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- (d) Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- (e) Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment or hydrocarbons to water.

The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

### **Conclusions on Proper Planning and Sustainable Development**

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would generally conform to the vision for the area as set out in the statutory Local Area Plan and to national policy guidance, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity

2. The appropriate period for this permission shall be 5 years from the date of this order. The development shall be carried out within that period in accordance with a phasing plan that shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. In particular,

this plan shall stipulate that none of the authorised dwellings may be made available by the developer for occupation until the necessary connections for the drainage of foul effluent and surface water have been constructed to the written satisfaction of the planning authority.

**Reason:** To ensure the timely and orderly development of the site for housing with the required supporting infrastructure, and as a permission with a longer duration is not considered appropriate.

3. The mitigation and monitoring measures outlined in Chapter 15 “Summary of EIA Mitigation and Monitoring Measures” of the environmental impact assessment report submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** To protect the environment.

4. The proposed development shall be amended as follows:-
  - (a) The proposed semi-detached type C houses on plots numbers 125 and 126 shall be omitted, and shall be replaced by a single detached house type, of Type J, of the “end unit design” as indicated on drawing numbers PL2-191 and PL2-192, with dual frontage, including entrance door and windows facing towards the proposed future pedestrian route, and with a set-back front building line the same as the proposed Type J house on plot 133.
  - (b) All rear gardens of houses shall be bounded by concrete post and concrete panel fences, 1.8 metres high, or by brick or concrete block walls, which shall be a minimum of 1.8 metres high, except where bounding public open spaces, roads or pedestrian routes to adjoining lands, when walls shall be provided, 2 metres in height and capped, and if of concrete block, rendered on the public side. The proposed boundary

treatment, using concrete post and timber panel fences, or any other form of timber fencing, shall not be used for any rear garden boundaries.

- (c) All windows serving landings, bathrooms and w.c.'s shall be permanently fitted with frosted glass.
- (d) All of the communal parking areas serving the apartments shall be provided with electric vehicle charging points, and all of the houses shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide passive surveillance to this pedestrian route in the interest of pedestrian safety, to prevent mutual overlooking of residential units, to ensure the provision of durable boundary treatment in the interest of the residential amenity of future occupiers of the development, and in the interest of ensuring sustainable transportation connectivity.

- 5. (a) The internal road network serving the proposed development, including turning bays, junctions, sight distances, footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works, and shall comply in all respects with the provisions of the Design Manual for Urban Roads and Streets (DMURS). In this regard, the carriageway of the street that runs north-east from the access to the Fort Road and then south-east to the boundary of the main part of the site with Ashwood Grove, following the line of the main street shown on figure 11 of the Creagh Neighbourhood Framework in the Gorey Local Area Plan 2016-2023, shall be not greater than 6 metres in width. The carriageways of the other streets shall not be greater than 5.5 metres in width. Where space is required to allow access to perpendicular parking spaces this shall be provided as set out in figure 7.82 of DMURS without increasing the width of the adjoining carriageway to more than 5.5 metres.

(b) The proposed cycleways shall be designed as cycle tracks in line with sections 1.5 and 4.3.4 of the National Cycle Manual issued by the National Transport Authority with vertical segregation from pedestrian paths and suitable priority over traffic to and from minor roads at junctions.

(c) To facilitate connectivity and permeability, the finished surface of all roads and footpaths that are shown as future possible access shall meet up to site boundaries without the provision of a grass verge or ransom strip.

Revised plans showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of pedestrian and traffic safety, and in order to comply with national policy in this regard.

6. (a) The development, including all roads, footpaths, verges, public lighting, open spaces, foul sewers, surface water drains and attenuation provisions, and all other services, as permitted under this order, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority.

(b) The areas of open space shown on submitted drawings 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. The open space areas shall be laid out and landscaped prior to the making available by the developer for occupation of any of the houses in the development, or, as may be appropriate, any of the houses in the relevant phase of the development.

(c) All of the areas of public open space, as shown on the submitted drawings, shall be maintained by the developer until such time as the

development is taken in charge by the local authority. When the estate is taken in charge, the open spaces shall be vested in the planning authority, at no cost to the authority, as public open space.

**Reason:** In the interest of proper development, the timely provision of open spaces and in order to comply with national policy in relation to the maintenance and management of residential estates.

7. All of the subject development, with the exception of the apartment blocks and associated communal areas and services, shall be maintained by the developer until taken in charge by the planning authority. A properly constituted Owners Management Company shall be established to maintain only the apartment blocks and associated communal areas and services.

**Reason:** In the interest of clarity and to ensure that appropriate measures are put in place for the ongoing maintenance of the apartment blocks and associated areas, while also ensuring, in accordance with national policy, that the remainder of the development is maintained by the developer until taken in charge by the planning authority.

8. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All pitched roofs shall be slate-grey or blue-black in colour only, including ridge tiles.

**Reason:** In the interest of the visual amenities of the area.

9. The site shall be landscaped in accordance with the landscaping drawings submitted with the application, other than as amended by other conditions of this permission, and with the following modifications:-



- (a) The street trees along the “avenue” street that runs north-east from the access to the Fort Road and then south-east to the boundary of the main part of the site with Ashwood Grove, and also north-west to the boundary of the adjoining property to the north, shall consist of silver or paper birch trees, rather than the proposed species.
- (b) The proposed mesh fencing gates to Ramsfort Park shall be omitted, and the proposed pedestrian and cyclist access to the Park shall be unobstructed.

The developer shall retain the services of a suitably qualified Landscape Architect throughout the duration of the site development works. The developer’s Landscape Architect shall certify to the planning authority in writing his/her opinion on compliance of the completed landscape works with the approved landscape scheme (as modified by this permission) within six months of substantial completion of the development hereby permitted.

**Reason:** In the interests of visual and residential amenity, to visually differentiate the main through route from the remainder of the development, and to promote pedestrian permeability to the adjoining Park.

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

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

11. 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 overhead cables bounding or crossing the site shall be undergrounded, in accordance with the requirements of the relevant utilities, and at the expense of the developer.

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

12. 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 interests of public health

13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
  - (a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during the course of construction and the prohibition of parking on neighbouring residential streets;
  - (b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

- (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (e) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (f) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (g) The protection of trees and hedgerows on or bounding the site in accordance with the tree protection plan submitted with the application.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.

**Reason:** In the interest of amenities, public health and safety

14. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

15. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best

Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management

16. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.
- 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 site and to secure the preservation and protection (in-situ or by record) of any remains that may exist within the site.

17. 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 by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local 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 referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge

18. Prior to the commencement of development, the developer shall submit to, and agree in writing with, the planning authority details of the works required to lay the foul sewer from the main part of the site to the existing sewer on Arklow Road, including details of the method, timing and duration of the works and the reinstatement of roads and other land upon their completion. The developer shall comply with the requirements of the planning authority with regard to those works which may include stipulations in addition to those applying to the carrying out of works on the main part of the site under the conditions of this order.

**Reason:** In the interests of orderly development, road safety and residential amenity.

19. 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 94(4) and section 96(2) and (3) (Part V) 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 eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála 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

20. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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

**Board Member**

**Date:** 21<sup>st</sup> May 2019

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Philip Jones