



An  
Bord  
Pleanála

**Board Direction**  
**BD-004063-19**  
**ABP-304396-19**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/09/2019.

The Board decided to grant permission, 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;

- a) The zoning objectives for the site in the Dun Laoghaire Rathdown Development Plan 2016 – 2022
- b) The Six Year Road Objective for a link road from The Park, Carrickmines to Ballyogan Road in the Dun Laoghaire Rathdown Development Plan 2016 – 2022
- c) The Site Specific Objective 131 for the provision of a Neighbourhood Centre in the Dun Laoghaire Rathdown Development Plan 2016 – 2022
- d) The provisions of the Ballyogan and Environs Local Area Plan (July 019)
- e) The nature and extent of existing and permitted development on the site and in the vicinity,
- f) The proposed improvements to the road network and public transport infrastructure in the area,
- g) The nature, scale and design of the proposed development including the public realm provision and enhancements

## **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 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 conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

## **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) The nature, scale and extent of the proposed development;
- (b) The environmental impact assessment report and associated documentation submitted in support of the planning application;
- (c) The submissions from the planning authority, the observers 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, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Significant direct effect on the landscape. The proposal would make a positive contribution to the urban character of the area, given the development plan policy considerations and the identification of the site for development to a certain scale with a strong presence to the public realm.
- Effects on population and human health arising from noise, vibration, dust, traffic, excavation and demolition impacts during construction which will be satisfactorily mitigated by a Construction Management Plan including traffic management measures.
- Significant direct positive effects with regard to population and material assets due to the increase in housing stock and provision of local neighbourhood services that it would make available in the area.
- Effects on traffic arise due to trips to the site. The proposed uses will in the main serve local need. Provision of neighbourhood centre facilities will reduce trips from the area to other locations.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

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

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an appropriate form of development, would not be contrary to the retail policy as set out in the Dun Laoghaire Rathdown Development Plan 2016 – 2022, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of pedestrian and traffic

safety and convenience and would 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 on the 28<sup>th</sup> March 2018 and as amended by the further plans and particulars submitted on the 12<sup>th</sup> October 2018 and 18<sup>th</sup> February 2019 and by the further plans and particulars received by An Bord Pleanála 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 and monitoring measures set out in, chapter 14 “Mitigation and Monitoring”, of the Environmental Impact Assessment Report dated September 2018 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.

3. The development shall be carried out in accordance with the phasing plan as outlined in the documentation submitted with the further information and the Construction Environmental Management Plan (CEMP) submitted by way of clarification of further information, except as required to comply with the following,

- a) The Ballyogan Link Road (Northfield Road Extension) shall be constructed and operational prior to the occupation of any part of the overall ‘Quadrant 3, The Park’ development

- b) The park including greenway (as shown on Figure 12.13 of chapter 12 of the EIAR) shall be available for use by the general public before the operation of neighbourhood centre commences. Areas restricted due to construction of other elements of the development or requirements for planting to take hold shall be available for use no later than 6 months after the operation of the neighbourhood centre commences. Details shall be agreed with the Planning Authority in writing prior to commencement of work on site.
- c) The neighbourhood centre and leisure use shall commence operation within 6 months of the occupation of the retail warehousing.

**Reason:** In the interest of clarity and to provide for a structure schedule of construction works on the site and to ensure the timely provision of services, for the benefit of future occupants of the proposed development.

- 4. A Mobility Management Strategy Plan shall be submitted to, and agreed in writing with, the planning authority and shall include a car park management strategy. The following measures shall be undertaken:
  - a) The Strategy shall set a target to achieve an improved modal travel split and shall propose specific measures, including any necessary physical interventions on the site or changes to car park management/policies, to achieve the revised modal split target.
  - b) A Mobility Manager shall be appointed to oversee and co-ordinate the implementation of the plan.
  - c) A follow-up survey of the modal travel split for all users of the site shall be carried out and submitted to the planning authority within 12 months of the completion of the overall development hereby permitted.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

5. A servicing plan for the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the appropriate servicing of the building.

6. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

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

7. Water supply and drainage arrangements, including the 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.

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.

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

9. No external security shutters shall be erected on any of the commercial premises fronting onto public roads and public spaces, unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

10. 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.

11. a) Members of the public shall have full right and liberty for the free passage and use of the greenway through the proposed 'Quadrant 3, The Park' development/Linear Park (i.e. the Applicants Blue Line). The management plan shall detail the maintenance and management of the open space to maintain the access route.
- b) A wayfinding signage scheme for the entire development, including the greenway, parkland and all internal streets shall be submitted to the planning authority for written agreement before the occupation of the development.

**Reason:** To ensure pedestrian/cyclist permeability between Ballyogan to the west and Cherrywood/future development to the east and to ensure legibility within the scheme for all users.

12. Public lighting shall be provided in accordance with a scheme, [which shall include lighting along pedestrian routes through open spaces] details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interests of amenity and public safety

13.
  - a) The net permitted retail space shall not exceed 6,000 sqm net.
  - b) The overall number of seats in the proposed cinema shall not exceed 900.
  - c) No retail units shall be extended, sub-divided or merged internally without the prior written agreement of the planning authority.
  - d) No additional mezzanine floors shall be provided in the retail warehousing units
  - e) The use of the retail warehousing units shall be limited to bulky goods as defined in Annex 1 of the Retail Planning Guidelines. No more than 20% of the net retail space shall be used for the sale of any ancillary products.
  - f) The restaurants shall not be used as a fast food/take away outlets without prior grant of permission.
  - g) No advertising sign or structure shall be erected except those which are exempted development, without the prior written agreement of the Planning Authority.
  - h) Details of the shop front and signage shall be submitted to and agreed in writing with the Planning Authority prior to occupation.

**Reason:** In the interest of clarity and to provide for the orderly regulation of retail development in accordance with the stated retail policies set out in the current development plan for the area.

14. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.



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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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

16. The construction of the development shall be managed in accordance with a Site Traffic and 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 compound(s) including area(s) identified for the storage of construction refuse.
- b) Location of areas for construction site offices and staff facilities.
- c) Details of site security fencing and hoardings.
- d) Details of on-site car parking facilities for site workers during the course of construction.
- e) Details of 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.
- f) Measures to obviate queuing of construction traffic on the adjoining road network.

- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- j) 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.
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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.

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

17. With regards to Transportation and Movement:

- a) A Parking Control Scheme (i.e. Paid Parking) for the commercial element of the proposed development shall be submitted and agreed in writing with the Planning Authority prior to commencement of work on site
- b) The number of car parking spaces shall be reduced by 200. Revised drawing showing this reduction shall be submitted to the planning authority before the commencement of development for written agreement.
- c) The existing Left In/Left Out arrangement at main entrance to the 'Quadrant 3, The Park' development shall be maintained.

- d) The Applicant shall arrange at their own expense and to the satisfaction of the Planning Authority for the necessary adjustments to all proposed road layout, markings, toucan traffic signals, central medians and associated works on adjoining roads to accommodate the overall 'Quadrant 3, The Park' development (loops, reprogramming of signals, etc.). All cabling and electrical work shall be carried out by Dun Laoghaire-Rathdown County Council.
- e) Any proposed works on the public road shall be agreed with the Planning Authority (Traffic & Road Safety Section) prior to commencement of the proposed development. All works to be carried out on the public road/footpath/cycletrack shall be at the Applicant's expense and shall meet the Dun Laoghaire-Rathdown County Council's 'Taking-in-Charge' requirements.
- f) Detailed drawings and specifications for Ballyogan Link Road (Northfield Road Extension) to meet Dún Laoghaire-Rathdown County Council's 'Taking In Charge Policy Document (April 2016)' shall be submitted and agreed in writing with the Planning Authority prior to commencement of work on site
- g) The Applicant shall ensure the allocation of a minimum of 1 standard car parking space for each residential apartment units. The car parking spaces for the residential apartment units shall be sold with the units and shall not be sold separately or let.
- h) Of the proposed 54 no. street level car parking spaces 5 no will accommodate Electricity Operated Vehicles. The remaining car parking spaces shall be constructed so as to be capable of accommodating future electric charging points as required
- i) The appointed Travel Plan Coordinator shall provide an annual report to the Planning Authority for a period of 3 years.
- j) The Applicant shall implement and operate, all at their own expense, the proposed free Local Bus Route The route and times shall be finalised and agreed in writing with the Planning Authority prior to commencement of work on site. Any changes to the route and times

shall also be agreed in writing with the DLRCC prior to implementation.

- k) A Stage 2 detailed design Quality Audit shall be carried out prior to commencement of construction. Post construction / prior to occupation a Stage 3 Road Safety Audit and a post completion Quality Audit shall be carried out at the Applicant's expense in accordance with the Design Manual for Urban Roads & Streets (DMURS) and TII (Transport Infrastructure Ireland) standards.
- l) All measures recommended by the Auditor shall be undertaken unless the Planning Authority approves a departure in writing. A feedback report shall also be submitted providing a response to each of the items

**Reason:** In the interest of the promotion of sustainable modes of transport, to control car parking, pedestrian and traffic safety and in the interest of the proper planning and sustainable development of the area.

18. 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 (including archaeological testing) 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.

19. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

20. Prior to commencement of development, the developer shall submit to, and obtain the written agreement of the planning authority, a plan containing details for the management and safe disposal of all 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.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

21. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority, before the proposed development is made available for occupation.

**Reason:** To provide for the future maintenance of this private development in the interest of visual amenity.

22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site on cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. 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 satisfactory reinstatement of the site.

23. 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. The application

of any indexation required by this condition 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 expenditure incurred by the developer in the construction of the Ballyogan Link Road forming part of the development, which is a 6 year objective of the Dun Laoghaire Rathdown County Development Plan shall be offset against the contribution amount.

**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.

24. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood 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, 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. The application of any indexation required by this condition 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.

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

25. The developer shall pay the sum of €300,000 (three hundred thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods),

published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of upgrade of the Glenamuck Road/The Park junction. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

**Board Member**

**Date:** 18/09/2019

---

Michelle Fagan