



An  
Bord  
Pleanála

**Board Direction**  
**BD-004904-20**  
**ABP-305534-19**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 14/01/2020.

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 site's location adjoining the established settlement of Rush, Co. Fingal on lands with a zoning objective for residential development under the Fingal County Development Plan 2017-2023;
- b) the policies and objectives in the Fingal County Development Plan 2017-2023;
- c) the Rebuilding Ireland Action Plan for Housing and Homelessness;
- d) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual;
- e) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments;

- f) the Design Manual for Urban Roads and Streets (DMURS);
- g) the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices);
- h) the nature, scale and design of the proposed development;
- i) the availability in the area of a wide range of social and transport infrastructure;
- j) the pattern of existing and permitted development in the area,
- k) the submissions and observations received, and
- l) the report of the inspector,

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would be acceptable in terms of urban design, height and quantum of development, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area, would not give rise to flooding in the area, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area..

### **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 Screening**

The Board completed an environmental impact assessment screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- a) the nature and scale of the proposed development, in a suburban area on a generally greenfield site served by public infrastructure,
- b) the absence of any significant environmental sensitivities in the area,
- c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

## 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, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

2. 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. The proposed phasing shall be revised such that the apartment blocks A and B are constructed as part of phase 2 of the development.

**Reason:** To ensure the satisfactory and timely completion of the proposed residential units.

3. The proposed development shall be amended such that house no. 35 shall be omitted and re-placed by a childcare facility and associated open space play area, which shall be the subject of a future planning application to Fingal County Council, unless an alternative location is agreed with the planning authority.

**Reason:** In order to comply with national policy on childcare provision for residential development as set out in the Childcare Facilities Guidelines for

Planning Authorities and the Sustainable Urban Housing Design Standards for New Apartments.

4. The proposed development shall be carried out as follows with regard to transportation, pedestrian/ cycle and roads requirements:
  - (a) The roads and traffic arrangements serving the site (including road signage), shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
  - (b) The vehicular access from the R128 Skerries Road and associated signalised junction and the widening and upgrade of Palmer Avenue, along with associated pedestrian and cycle facilities shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
  - (c) The removal / relocation of the existing bus stop (no. 3834) on Skerries Road shall be agreed with the planning authority and Dublin Bus and shall be carried out at the developer's expense.
  - (d) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings, car parking bay sizes and road access to commercial parking shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii, and cycle tracks within the development shall be in accordance with the guidance provided in the National Cycle Manual.
  - (e) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
  - (f) All works to public roads/footpaths shall be completed to taking in charge standards and shall be to the satisfaction of the planning authority.

- (g) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works, which shall be submitted to the planning authority for its written agreement. The developer shall carry out all agreed recommendations contained in the audit, at his expense.
- (h) A Mobility Management Plan for the development, to include parking management for the apartment blocks and proposals for a car sharing scheme, shall be prepared and submitted to the Planning Authority for its written consent prior to the commencement of development.
- (i) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Revised drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interests of pedestrian, cyclist and traffic safety and sustainable transportation.

5. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation

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

Drainage arrangements, including the attenuation and disposal of surface water and the diversion of the Kenure Stream culvert, shall comply with the requirements of the planning authority for such works and services and all surface water shall be treated within the site.

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

7. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed houses without a prior grant of planning permission.

**Reason:** In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings, and to allow the planning authority to assess the implications of any such development on residential amenity through the statutory planning process.

8. The materials, colours and finishes of the authorised buildings, the treatment of boundaries within the development and the landscaping of the site shall generally be in accordance with the details submitted with the application, subject to the following amendments –

- (a) All rear gardens of houses shall be bounded with brick or concrete block walls, which shall be a minimum of 1.8 metres high, except where bounding public open spaces or roads, when the walls shall be 2 metres in height, or by concrete post and concrete panel fences, 1.8 metres high.

(b) Details of all boundaries shared with adjoining residential properties shall be agreed with the planning authority.

(c) Where possible, only lime mortar shall be used for rebuilding, pointing and grouting the limestone wall at the site frontage.

Details showing the required amendments shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interests of visual and residential amenity and to ensure the provision of durable boundary treatments; to comply with Objective DMS05 of the Fingal County Development Plan 2017-2023.

9. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

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

10. Prior to commencement of development, the developer shall submit to, and obtain the written consent of, the planning authority for:

(a) A tree protection plan.

(b) A programme of tree surgery works.

(c) Details of root zone design and specification for street trees proposed.



(d) Detailed design proposals for the proposed play and outdoor fitness areas.

**Reason:** To protect the amenity value of existing trees and ensure a high-quality landscape design throughout the scheme in the interest of proper planning and sustainable development.

11. Public lighting shall be provided in accordance with a scheme, 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 by the developer for occupation of any house / unit within the relevant phase of the development.

**Reason:** In the interest of amenity and public safety.

12. The applicant shall comply with the following requirements in relation to natural heritage:

(a) The mitigation and monitoring measures outlined in the Ecological Impact Statement submitted with this application shall be carried out in full, except where otherwise required by conditions of this permission.

(b) Prior to any construction work commencing on the stone wall boundary, a bryophyte (moss), lichen and vascular plant survey shall take place. Should any legally protected, rare or threatened species be found, mitigation measures must be implemented. In the case of legally protected species, a licence will be required from the Department of Culture, Heritage and the Gaeltacht.

(c) A bat survey shall be carried out prior to the commencement of any construction work on the stone wall boundary. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged

destruction of structures that support bat populations shall be carried out only under licence from the Department of Culture, Heritage and the Gaeltacht and details of any such licence shall be submitted to the planning authority.

**Reason:** To ensure the protection of the natural heritage on the site.

13. 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 place names for new residential areas.

14. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of apartments in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

**Reason:** To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

15. All service cables associated with the proposed development, such as electrical, communal television, telephone and public lighting cables, shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of orderly development and the visual amenity of the area.

16. 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 residential amenity of property in the vicinity and the visual amenity of the area.

17. Site development and building works shall be carried out only between the hours of 0700 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.

18. 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, noise management measures and off-site disposal of construction/demolition waste.

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

19. 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.

20. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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.

Waste disposal arrangements for apartment blocks A and B shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

21. 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 of any remains that may exist within the site.

22. 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.

23. 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.

24. 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:** 14/01/2020

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Stephen Bohan