



An  
Bord  
Pleanála

**Board Direction**  
**BD-005047-20**  
**ABP-305619-19**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28/01/2020.

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 on lands with a zoning objective for residential development in the Fingal County Development Plan,
- (b) the nature, scale and design of the proposed development which is consistent with the provisions of the Portmarnock South Local Area Plan,
- (c) to the Rebuilding Ireland Action Plan for Housing and Homelessness,
- (d) to the provisions of the Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May, 2009,
- (e) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Housing and Planning and Local Government, March 2018,
- (f) 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,

(g) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,

(h) the availability in the area of a wide range of social infrastructure,

(i) the nature, scale and design of the proposed development;

(j) to the pattern of existing and permitted development in the area,

(k) to the submissions and observations received and,

(l) 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, the Inspector's report, and submissions on file. In completing the screening exercise, the Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Baldoyle Bay SAC (000199), the Baldoyle Bay SPA (004016), the North Bull Island SPA (004006) and the Malahide Estuary SPA (004025) are the European sites for which there is a likelihood of significant effects. The Board was satisfied that all other European sites could be screened out of any further assessment because the remaining sites identified have no pathway for significant effects.

### **Appropriate Assessment**

The Board considered the Natura impact statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European sites, namely the Baldoyle Bay SAC (000199), the Baldoyle Bay SPA (004016), the North Bull Island SPA (004006) and the Malahide Estuary SPA (004025), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for these European sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European sites in view of the sites' conservation objectives.

### **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening 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 on an urban 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.

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

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, having regard to the constraints of the Dublin Airport Outer Public Safety Zone, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design and quantum of development and would also 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 following requirements of the Planning Authority shall be strictly adhered to:
  - a) The applicant shall provide a detailed design and costing for the upgrade of the two junctions – the R124/Station Road and Strand Road/Coast Road/Station Road, for the written approval of the Planning Authority.
  - b) The upgrade of the two junctions shall be provided prior to the construction of the proposed development.
  - c) Construction vehicles associated with the proposed development shall not access the site via the junction of the R124 and Station Road as the road width is insufficient for two HGVs to pass without mounting the footpath.

**Reason:** In the interests of proper planning of the area.

3. Prior to the commencement of development, the following details shall be submitted to, and agreed in writing with the planning authority:

Revised plans showing a reduction in the quantum of car parking serving the apartment units at the proposed local centre. Car parking provision shall be reduced to a ratio of 1:1 i.e. a maximum of 40 spaces within the designated residential car park. This plans shall indicate the reduction in car parking spaces and their replacement with hard and soft landscaping features.

**Reason:** In the interests of sustainable transport and in the interest of urban design.

4. Prior to the commencement of development, the following details shall be submitted to, and agreed in writing with the planning authority;
  - a) Signage throughout the development, including the signage for the local centre and commercial units.
  - b) Public lighting throughout the development.
  - c) The operating hours of the medical centre, retail/café/restaurant units shall be agreed in writing within the planning authority prior to first occupation of the unit.

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

5. The internal road network, public footpaths within and outside the proposed development site shall comply with the requirements of the planning authority for such works.

**Reason:** To ensure a satisfactory standard of development.

6. Prior to commencement of development, the developer shall submit a schedule of Ecological Mitigation Measures as detailed in the Natura Impact Statement (including supporting Appendices) and Ecological Appraisal

submitted with the application. The schedule shall set out the timeline for implementation of each measure and assign responsibility for implementation. All of the mitigation measures shall be implemented in full and within the timescales stated.

**Reason:** In the interests of clarity, protection of the environment and the proper planning and sustainable development of the area.

7. A suitably qualified ecologist shall be appointed by the developer to oversee the site set-up and construction of the proposed development. The ecologist shall ensure the implementation of all measures contained in the Schedule of Ecological mitigation measures. Prior to commencement of development, the name and contact details of said person shall be submitted to the planning authority. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the County Council to be kept on record.

**Reason:** In the interest of nature conservation, to prevent adverse impacts on the European sites and to ensure the protection of the Annex I habitats and Annex II species and their Qualifying Interests for which the sites were designated.

8. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall comply with the categorisation system contained in section 5.7 of the Portmarnock South Local Area Plan. Public lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interests of residential amenity and nature conservation.

9. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the Planning Authority's Taking in Charge Policy. Following completion, the development shall be maintained by

the developer, in compliance with these standards, until taken in charge by the planning authority.

**Reason:** In the interest of the amenities of the occupants of the proposed housing.

10. The proposed café/restaurant units shall not be used for the sale of hot food for consumption off the premises (that is, as a takeaway) unless authorised by a further grant of planning permission.

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

11. The internal noise levels, when measured from bedroom windows of the proposed development, shall not exceed:

- (a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and
- (b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed dwellings are made available for occupation.

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

12. Details and samples of the materials, colours and textures of all the external finishes and boundaries to the proposed development including external facades, signage, pavement finishes and bicycle stands 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.

13. 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.

14. The landscaping scheme submitted shall be carried out within the first planting season following substantial completion of external construction works, details of which shall be submitted to the planning authority for written agreement prior to the commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

15. 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, co-ordinate all the mitigation proposals contained in the archaeological assessment 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.

16. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

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

17. 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 amenities of property in the vicinity and the visual amenities of the area.

18. Proposals for an apartment, street and 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 apartment, 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 orderly development.

19. 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 and duplex units 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.

20. 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 interest of orderly development and the visual amenities of the area.

21. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets

shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

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

22. 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 and water quality.

23. The 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.

24. All mitigation measures as set out in Flood Risk Assessment submitted with this application shall be implemented in full.

**Reason:** To minimise flood risk and in the interest of proper planning and sustainable development of the area.

25. 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.

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

26. 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. The plan should include details of a programme of works that amongst other items provides for interception containment and treatment of construction runoff. No construction runoff should be diverted to the proposed SuDS measures such as the bioretention areas, permeable paving, green podiums or attenuation systems. Any surface water sewer pipes used to convey construction runoff should be thoroughly cleaned before subsequent connection to SuDS elements.

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.

27. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1300 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.

28. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

29. 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.

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

30. 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.

31. 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.

32. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the upgrade of the R124/Station Road junction and the Strand Road/Coast Road/Station Road junction. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be 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.

**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.

33. 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:** 29/01/2020

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Michelle Fagan