



An
Bord
Pleanála

Board Direction
BD-005249-20
ABP-305828-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/02/2020.

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 within the built-up urban area in Howth on lands mainly zoned for town centre and residential development under the Fingal Development Plan 2017-2023;
- (b) the policies and objectives in the Fingal Development Plan 2017-2023;
- (c) the National Planning Framework 2040,
- (d) the Regional Spatial and Economic Strategy for the Eastern and Midlands Region 2019-2031,
- (e) 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,
- (f) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March 2018,

- (g) the Guidelines for Planning Authorities on Urban Development and Building Height issued by the Department of Housing, Planning and Local Government in December 2018,
- (h) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009,
- (i) the nature, scale and design of the proposed development;
- (j) the availability in the area of a wide range of social and transport infrastructure including a railway station;
- (k) the pattern of existing and permitted development in the area;
- (l) the submissions and observations received, and
- (m) 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 the Special Area of Conservation for the Howth Head sitecode 000202 and the Special Protection Areas for the Howth Head Coast sitecode 004232 and Ireland's Eye sitecode 004117, taking into account the nature, scale and location of the proposed development, the omission of the proposed works and construction traffic on the Balscadden Road required by the conditions below, the information submitted with the application, the Inspector's report and the submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that the development that is authorised by this permission would not be likely to have a significant effect on the above European Sites or on any other European Site in view of the sites' conservation objectives, either individually or in combination with any other plan or project, and that a Stage 2 Appropriate Assessment is not required.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development in relation to the criteria set out Schedule 7 to the Planning

and Development Regulations 2001, as amended, having regard to the information submitted with the application including the EIA Screening Assessment Report, the Inspector's report and the submissions on file. In completing the screening exercise the board adopted the report on the Inspector and concluded that, having regard to the characteristics and location of the proposed development, as a mainly residential scheme on serviced urban land, and to the characteristics of its potential impacts, the proposed development would not be likely to have significant effects on the environment and that an environmental impact assessment is not necessary in this case.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would respect and enhance the historic and architectural character of the area, would be acceptable in terms of urban design, height and quantum of development, would not seriously injure the amenities of the area or of property in the vicinity, would not damage the natural heritage 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.

The board considered that a grant of permission that could materially contravene the allocation of 498 homes to Howth under the core strategy and settlement strategy set out in section 2 of the Fingal County Development Plan 2017-2023 would be justified in accordance with sections 37(2)(b)(i),(ii) and (iii) of the Planning and Development Act 2000, as amended, having regard to -

- the government's policy to ramp up delivery of housing from its current under-supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016,
- objectives 3a, 3b, 10, 11 and 35 of the National Planning Framework,
- section 5.8 of the 2009 Guidelines for Sustainable Residential Developments in Urban Areas issued in 2009

- section 2.4 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued in March 2018
- SPPR1 of the Guidelines for Planning Authorities on Urban Development and Building Height issued in December 2018,
- objective RPO 4.3 of the Regional Social and Economic Strategy for the Eastern and Midlands Region 2019-2031, and
- objectives SS01 and SS15 of the county development plan,

all of which support denser residential development consisting of apartments on public transport corridors within the built up area of Dublin city and its suburbs, as is proposed in this case.

Conditions

1. The proposed 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed widening of the footpath along the Balcadden Road shall be omitted from the proposed development.

Reason: To protect pedestrians and to safeguard the structural integrity of the road.

3. Pedestrian access to the western and eastern plazas, the pedestrian street and the northern pathway around Block C shall be permanent, open 24 hours a day, and no gates, security barrier or security hut shall be permitted at the entrances to this development from Balcadden Road, Main Street or the pathway access

to the Martello Tower or within the development in a manner which would prevent pedestrian access between the areas identified above.

Reason: In the interest of social inclusion.

4. The community room in Block B shall be made available for use by the residents of the development and the wider community. Within three months of the first occupation of the development by residents, the management arrangements for this community use shall be agreed with the planning authority. Any proposed change of use from community space shall be subject of a separate application for planning permission.

Reason: in the interests of clarity and ensuring adequate provision of community space.

5. 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 unless the prior written consent of the planning authority has been obtained for variations to them.

Reason: In the interest of visual amenity.

6. Details of the proposed shopfronts for the permitted commercial units shall be submitted for the written agreement of the planning authority prior to the occupation of those units, along with proposals for the management of waste and the control of odours. Thereafter any signs, screens, shutters or other such features and any ducts or air handling equipment on the exterior of the permitted buildings shall comply with the requirements of the planning authority.

Reason: In the interests of visual and residential amenity.

7. Construction traffic shall generally use route Option Number 2 between the site and Sutton Cross save in exceptional circumstances where the prior written consent of the planning authority has been obtained. Construction traffic shall not use the Balscadden Road. Otherwise the works required to complete the permitted development shall be carried out in accordance with the methods and

subject to the controls set out in the various reports submitted with the application including:

- (a) The Structural and Geotechnical Engineering Report,
- (b) The Construction Environmental Management Plan,
- (c) The Air Quality and Climate Impacts Report,
- (d) Vibration Management Plan and
- (e) The Ecological Impact Assessment Report.

A record of daily checks that the works are being undertaken in accordance with the applicable reports 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: To protect adjoining properties, the amenity of the area and road safety during construction.

8. Site development and building works shall be carried out only between 0700 to 1900 hours 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.

9. Proposals for street and block names, numbering schemes and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and 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 name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

10. 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.

Reason: In the interests of visual and residential amenity.

11. 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.

12. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

13. A plan containing details for the management of 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 within each block 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.

14. A minimum of 10% of all communal car parking spaces should be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and

charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

15. 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. The Ministry of War boundary markers associated with the Martello Tower shall be protected in full during the course of the development and maintained thereafter.

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.

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. 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 the 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.

18. 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.

19. Prior to commencement of development, the developer 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.

21. 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 public open space. 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.

Board Member

Michelle Fagan

Date: 26/02/2020

Decision Quashed