



An
Bord
Pleanála

Board Direction
BD-005502-20
ABP-306102-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/03/2020.

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

Having regard to the following -

- (a) the site's location within the built-up urban area in Howth on lands zoned for town centre 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 Social 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 in Retail Planning issued by the Department of the Environment, Community and Local Government in April 2012
- (i) 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,
- (j) the nature, scale and design of the proposed development;
- (k) the availability in the area of a wide range of social and transport infrastructure including a railway station;
- (l) the pattern of existing and permitted development in the area;
- (m) the submissions and observations received, and
- (n) the report of the Inspector,

it is 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, would support the commercial role of Howth's town centre 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 and the restriction on height set out in local objective 108 of the plan 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.

The board considered that a grant of permission that would materially contravene the specific local objective 108 of the Fingal County Development Plan 2017-2023 which applies to the site would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, having regard to -

- objective 13 of the National Planning Framework 2018-2040
- SPPR 1, SPPR 3 and section 3.2 of the Guidelines for Planning Authorities on Urban Development and Building Height issued in December 2018

which state policy in favour of greater density and height at central accessible locations such as the current application site, subject to performance and development management criteria with which the proposed development would comply.

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 Baldoyle Bay sitecode 000199 and the Special Protection Areas for the Baldoyle Bay sitecode 004016, taking into account the nature, scale and location of the proposed development, 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

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

- (a) the nature, scale, location and extent of the proposed development,
- (b) the environmental impact assessment report and associated documentation submitted with the application,
- (c) the submissions from the planning authority, the prescribed bodies and the public in the course of the application, and
- (d) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment.

The Board agreed with the summary and 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 made in the course of the application.

The board considers that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to population and material assets arising from the additional housing that would be provided on the site;
- Significant indirect positive effects on the landscape arising from the removal of obsolete industrial and commercial structures which are visible from nearby scenic coastal and upland areas and their replacement with residential and commercial buildings whose form and design would provide an appropriate extension to the town centre of Howth
- Potential effects on human health, soil, air quality and from noise and vibration during construction which would be mitigated by appropriate measures as set out in the EIAR submitted with the application.

The proposed development is not likely to have significant effects on biodiversity, water, climate or cultural heritage.

The likely significant environmental effects arising as a consequence of the proposed development have therefore been satisfactorily identified, described and assessed.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, as set out in Chapter 14 of the environmental impact assessment report, and, subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting inspector.

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. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 14 of the EIAR 'Summary of Mitigation Measures', shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health

3. The proposed development shall be amended as follows:
 - (a) The public footpath shall be maintained across the full extent of the site along the Howth Road. Access to the permitted car parks shall be provided in the form of crossovers whose surface treatment and level indicate the maintenance of pedestrian priority in accordance with the guidance set out 4.3.1 of the DMURS.
 - (b) A continuous cycle lane or track shall be maintained along the Howth Road in front of the site which shall conform to the one of the models set out in section 4.3 of the National Cycle Manual and which shall segregate cyclists from pedestrians and vehicular traffic and provide cyclists with priority over

vehicles exiting or turning right into the permitted car parks. The design of the bus stop shall comply with one of the options set out in section 5.1.5 of the manual

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

Reason: In the interests of road safety and to ensure that the development complies with the applicable policies and standards for road design.

4. 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 interests of visual amenity

5. 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

6. The construction of the development shall be managed in accordance with a final Construction Management Plan which shall provide for the implementation of the relevant mitigation measures set out in the EIAR and generally conform with the Outline Construction Management Plan, the Outline Construction and Demolition Waste Management Plan and the Outline Construction Environmental Plan submitted with the application. The final Construction Management Plan shall be submitted to, and agreed in writing with, the

planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during the course of construction and the prohibition of parking on neighbouring residential streets;

(b) The timing of construction traffic to and from the construction site and its routing to Sutton Cross along the Howth Rad and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(d) 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;

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

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

7. 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.

8. 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.

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

9. 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.

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interests of public health

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

Reason: In the interest of public health

11. 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. This plan shall provide details of air handling and extraction for the permitted restaurant and café and of any ducting or other equipment required in this regard. 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

12. The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of 10% of each of these spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points and the provision for the operation and maintenance of the charging points (where they are not in the areas to be taken in charge) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interests of sustainable transportation

13. 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.

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

15. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

16. Prior to the commencement of development the developer shall consult with Iarnród Éireann and shall comply with its requirements regarding the carrying out of works in the vicinity of the railway.

Reason: In the interests of public safety

17. Prior the commencement of development the developer shall consult with the Irish Aviation Authority and shall comply with its requirements regarding the erection of any tower cranes on the site.

Reason; In the interests of public safety

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 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

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute

(other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area

20. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

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 the construction of a pedestrian bridge over the railway from the site towards Claremont Strand. 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

Date: 25/03/2020

Paul Hyde