

An
Bord
Pleanála

Board Direction
BD-008704-21
ABP-307599-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/04/21 and following receipt and circulation of responses to a Section 132 request for further information, the Board held a further meeting on 14/07/21 to consider the additional submissions.

The Board decided to grant permission, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the policies and objectives set out in the National Planning Framework (DHPLG 2019)
- (b) the Eastern and Midland Regional and Spatial Economic Strategy 2019-2031
- (c) the policies and objectives set out in the Meath County Development Plan 2013-2019 and the Ratoath Local Area Plan 2009-2015
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (e) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (f) the Urban Development and Building Heights Guidelines, 2018
- (g) the Design Manual for Urban Roads and Streets, DMURS 2013, as extended
- (h) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (i) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (j) the nature, scale and design of the proposed development

- (k) the land use zonings of the site
- (l) the pattern of existing and permitted development in the area
- (m) the submissions and observations received,
- (n) the decision of the Planning Authority
- (o) the report of the Senior Planning Inspector

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated Natura 2000 Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document & NIS 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.

The Board noted that Natura Impact Statement was prepared by the applicant, on the basis of the precautionary principle as standard construction phase controls are proposed on a watercourse which is hydrologically linked to designated SAC and SPA. However, having regard to the nature and extent of the proposed development and its distance from designated Natura 2000 sites and the nature of measures proposed the Board agreed with the Inspector and considered that there are no individual elements of the proposed project that are likely to give rise to significant effects on the designated sites at the Broadmeadow/ Swords (Malahide Estuary) SPA and Malahide Estuary SAC.

Although a source-pathway-receptor linkage exists between the application site and the designated habitats of Malahide Estuary SAC / SPA, in this instance, given the scale of the proposed development, the Board considered the downstream distance of 17.6km is sufficient to ensure that no impacts will arise.

EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

Conclusion on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the attached conditions that the proposed development would constitute an acceptable quantum and density of development in this accessible location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, layout and height, would be acceptable in terms of pedestrian, cyclist and traffic safety and would provide an acceptable form of residential amenity for future occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, a grant of permission in material contravention of Zoning Objective F1 in relation to open space of the Ratoath Local Area Plan 2009-2015 would be justified for the following reasons and considerations:

- Objectives 27, 33 and 35 of Project Ireland 2040, the National Planning Framework which supports increased residential densities at appropriate locations, including infill development schemes, area or site based regeneration and increased building heights.
- the Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019 which encourages the provision of higher densities and consolidation of a self-sustaining towns in the region and promotes the *“contained growth, focusing on driving investment in services, employment growth and infrastructure whilst balancing housing delivery”*.

In deciding not to accept the Inspector's recommendation to refuse permission on the basis of a material contravention of the FI zoning objective in the Local Area Plan and to *"primarily develop the open space zoned portion of the site for residential and associated development"*, the Board was satisfied that, following receipt of the S132 response and the details therein and following further consideration, that it was justified in invoking Section 37(2)(b) in respect of the provision of residential development on lands with a Zoning Objective F1- *"to provide for and improve open spaces for active and passive recreational amenities"* for the reasons as outlined above having regard to the changing policy context and greater emphasis on consolidated growth as set out within the NPF and RSES, and was satisfied that the level of infringement proposed on open space zoned lands, adjacent to a River, was acceptable. In addition, the Board considered that the revised riverside layout would assist in the advancement of Objectives SOC OBJ 12, SOC OBJ 15, SOC OBJ 17 and SOC OBJ 18 of the Ratoath Local Area Plan 2009-2015 to enhance access to riverside walks and active recreation along the Broadmeadow River, a key regeneration objective for Ratoath.

Furthermore, in deciding not to accept the Inspector's recommendation to refuse permission on the basis of overdevelopment, the Board was satisfied following receipt of the additional information and clarification with regard to the daylight and sunlight levels, and following amendments to the landscaping plan, that the proposed development, having regard to its scale, design and massing on an infill zoned site, would not seriously injure the residential amenity of future occupants or adjoining properties and would not constitute overdevelopment of the site and would represent an acceptable design solution for the site location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Finally, the Board accepted and agreed with the Inspectors analysis and conclusion that the proposed car parking provision did not constitute a material contravention of the Meath County Development Plan or the Ratoath Local Area Plan and

furthermore, the Board was satisfied that that the issue of flood risk as set out in the planning authority's reason for refusal has been sufficiently addressed within the appeal and the Board accepted and agreed with the Inspectors analysis and conclusion in this regard.

Conditions

1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by the further plans and particulars received by An Bord Pleanála on the 8th of June 2021 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. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise 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 interest of visual amenity.

3 The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised plans and particulars showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:

(a) The roads and traffic arrangements serving the site, including pedestrian crossings, where required, and 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 materials used in any roads and footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.

- (c) All works to public roads and footpaths shall be completed to the satisfaction of the planning authority.
- (d) The roads layout shall comply with the requirements of 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 2019, as amended,
- (e) 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.

In default of agreement, the matter(s) in dispute shall be referred to An Board Pleanála for determination.

Reason: In the interests of cyclist, pedestrian and traffic safety and to protect residential amenity.

4. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

5. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or 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.

6 The areas of public open space and communal open spaces, as shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application and by the further plans and particulars received by An Bord Pleanála on the 8th of June 2021, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

Reason: In order to ensure the satisfactory development of the public and communal open space areas, and their continued use for this purpose.

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

Reason: In the interests of amenity and public safety.

8 Prior to commencement of development, the developer shall enter into water and or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

9 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 for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

10 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.

11 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.

12 The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the

development, including noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction and demolition waste and or by products.

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

13 The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

14 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.

15 Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays and 0800 to 1400 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.

16 All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. 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.

17. 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 commencement of development. The archaeologist shall assess the site 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.

18. 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.

19. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 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.

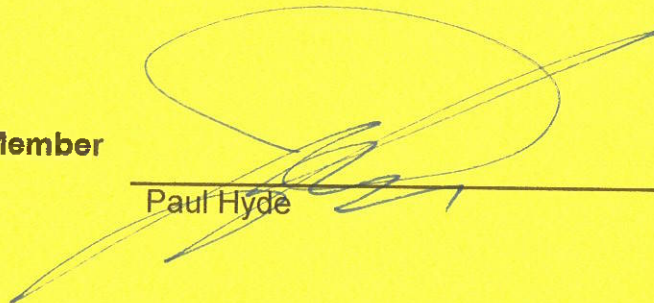
Reason: To ensure the satisfactory completion of the development.

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. 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



Paul Hyde

Date: 26/08/2021