



An  
Bord  
Pleanála

**Board Direction**  
**BD-007189-20**  
**ABP-308135-20**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/12/2020.

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 location of the site on lands with a zoning objective for residential development;
- b. The policies and objectives in the Dundalk Environs Development Plan 2009-2015 (as extended) and Louth County Development Plan 2015-2021;
- c. The nature, scale, density and design of the proposed development;
- d. The pattern of existing development in the area;
- e. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- f. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- g. Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- h. 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;

- i. The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;
- j. The Urban Development and Building Heights Guidelines for Planning Authorities 2019;
- k. The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- l. Submissions and observations received;
- m. The Chief Executive's Report; and
- n. The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment screening and environmental impact assessment screening.

### **Appropriate Assessment Screening**

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Dundalk Bay SAC (site code 000455), and the Dundalk Bay SPA (site code 004026), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

### **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 Dundalk Bay SAC (site code 000455), and the Dundalk Bay SPA (site code 004026), 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 appropriate assessment, the Board considered, in particular, the following:

- 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 the 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 the European Sites, in view of the sites' Conservation Objectives.

### ***Environmental Impact Assessment***

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:

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for residential use under the provisions of the Louth County Development Plan 2016 – 2022 and the results of the strategic environmental assessment of the Louth County Development Plan 2015 – 2021 undertaken in accordance with the SEA Directive (2001/42/EC),

- The location of the site within the existing built-up urban area, which is served by public infrastructure and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- the criteria set out in Schedule 7 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 and that the preparation and submission of an environmental impact assessment report would not therefore be required.

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

The Board considers that the proposed development is, apart from the parameters of Policy CS2 and Policy HC 20, compliant with the provisions of both the Dundalk and Environs Development Plan 2009-2015 (as extended) and the Louth County Development Plan 2015-2021 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene Policy CS2 and Policy HC20 of the Dundalk and Environs Development Plan 2009-2015 as outlined below: -

The Board considers that, having regard to the provisions of section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified for the following reasons and considerations:

- The proposed development falls within the definition of strategic housing set out in Planning and Development (Housing) and Residential Tenancies Act 2016.
- Government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016

The Board considers that, having regard to the provisions of section 37(2)(b)(ii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified for the following reasons and considerations:

- The core strategy of the Louth County Development Plan 2015 – 2021, which allocated an additional 1,600 units for the period 2015-2021 in Dundalk and required an additional 57 hectares of phase 1 lands be provided in the town. The Dundalk and Environs Development Plan 2009-2015 was not varied to take account of these additional lands.
- Promote the Strategic Objectives of the Louth County Development Plan 2015-2021 to direct new development in accordance with the settlement hierarchy identified in the Plan, which is not reflected in the Dundalk and Environs Development Plan 2009-2015.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified for the following reasons and considerations:

***Policy CS 2 – Phasing:*** The proposed material contravention to Policy CS2 of the Dundalk and Environs Development Plan 2009 – 2015 (as extended) is justified by reference to:-

- Objective 7 and Objective 33 of the National Planning Framework which encourages population growth in strong employment and service centres of all sizes, supported by employment growth and priorities the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

- Section 4.5 Regional Growth Centres of the RSES which envisions a population target of 50,000 for the entire settlement of Dundalk up to 2031.

**Policy HC 20 - Open Space:** The proposed material contravention to Policy HC20 the Dundalk and Environs Development Plan 2009 – 2015 (as extended) is justified by reference to:-

- National Policy Objective 13 which allows for planning and related standards to be based on performance criteria that seek to achieved well-designed high-quality outcomes.

The Board also considers that, having regard to the provisions of section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified for the following reasons and considerations:

- Since the making of the Dundalk and Environs Development Plan 2009 2015 (as extended) permission was granted under Strategic Housing Development ABP 304782-19 in 2019 for 483 no. residential units and a crèche on lands designated as Phase 3, approx. 1.6km north east of the subject site and Strategic Housing Development ABP-303253-18 in 2019 for 166 no. residential units and a creche on lands designated Phase 2, approx. 900m north east of the subject site.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i), (ii), (iii) and (iv) of the 2000 Act were satisfied for the reasons and considerations set out in the decision.

Furthermore, the Board considered that, subject to compliance with the conditions set out below, that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, density, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience and public health. 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

2. The proposed development shall be amended as follows: -

Apartment Block 2 shall be omitted from the scheme. This area shall be seeded and maintained until a further permission is secured for its development.

**Reason:** In the interest of orderly development

3. House nos. 42-60 incl. and duplex nos. 89-96 incl. shall be omitted from the scheme. These areas shall be seeded and maintained until a further permission is secured for their development.

**Reason:** In the interest of avoiding premature development, arising from flood risk concerns, in particular the measures proposed in the Neagh Bann Floor Risk Management Report.

4. The proposed development shall be amended as follows: -

a) The internal road serving house nos. 217 – 224 which runs parallel to the Dublin Road and provides access into Earlsfort to the north shall be redesigned as a homezone, in accordance with DMURS. Any residual land be allocated

as private open space for house nos. 217-224. A raised table and associated road markings and signage shall be provided at the junction with Earlsfort.

- b) The road between duplex unit nos. 69-88 and the rear gardens of house nos. 61-68 shall be redesigned as a homezone, in accordance with DMURS. Any residual land shall be incorporated into private open space for houses 61-68 and the duplex units.

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 interest of residential and visual amenity

5. Open Space Area 3 as indicated on Drawing no. 40294-206 shall be completed prior to the commencement of development of Phase 2 development. Details of the facilities to be provided in the open space area shall be submitted to and agreed in writing with the Planning Authority.

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

6. The footpath along the eastern site boundary shall be constructed to the boundary wall with Ard na Mara to allow for future connectivity.

**Reason:** In the interest of permeability and connectivity.

7. The boundary treatment along the Dublin Road shall comprise a low boundary wall with a maximum height of 1.1m, unless otherwise agreed in writing with the planning authority.

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

8. The proposed bin and bike storage located at the western site boundary with the Dublin Road shall be relocated to the satisfaction of the planning authority.

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



9. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority/An Bord Pleanála 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.

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. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall include the area of open space / embankment at the southern site boundary and adjacent to Haggardstown Stream which is located within the blue line boundary. It shall cover a period of at least three years and shall include details of the arrangements for its implementation.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of visual amenity

12. Details of the public cycle track and footpath along Dublin Road shall comply with the detailed standards of the planning authority for such road works, and shall comply with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

13. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In

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

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

14. A minimum of 10% of communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Detailed proposals to comply with this requirement shall be submitted to, 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. Proposals for an estate name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and numbers shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility

16. 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.

17. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of public health and surface water management

18 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.

19 Within twelve months of the date of this Order, the applicant or developer shall enter into a wayleave agreement with the planning authority to provide a 10 metre wide access riparian corridor along the watercourse referred to as the Haggartstown Stream in the documentation submitted with the application. The wayleave shall remain free of from all structures and other objects.

**Reason:** In the interest of orderly development and floor prevention.

20 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.

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

21 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.

- 22 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

- 23 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.

- 24 The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice

for the development, noise management measures and off-site disposal of construction/demolition waste.

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

25 (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

26. 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

27 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:** 16/12/2020

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Terry Prendergast

**Note:** The Board is precluded from granting planning permission for a 5-storey development on the site, in the absence of a Material Contravention statement relating to Policy RES 19 of the Louth County Development Plan 2015-2021.

Please issue Direction with Board Order.