

An
Bord
Pleanála

Board Direction
BD-008946-21
ABP-308446-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 19/08/2021.

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.

Stage 2 Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Rogerstown Estuary SAC (00208); Rogerstown Estuary SPA (004015); Malahide Estuary SAC (00205); and Malahide Estuary SPA (004025) are the European sites for which there is a likelihood of significant effects. 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 in view of the site's Conservation Objectives Rogerstown Estuary SAC (00208); Rogerstown Estuary SPA (004015); Malahide Estuary SAC (00205); and Malahide Estuary SPA (004025).

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, the

- i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii) mitigation measures which are included as part of the current proposal, and

iii) Conservation Objectives for these European Sites,

In completing the AA, 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 site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European site(s) in view of the site's 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 in the Planning Report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment. The Board concluded that the proposed development, having regard to its nature and scale, 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.

Reasons and Considerations

Having regard to the location of the application site in an area zoned for Town Centre and Residential development under the Fingal County Development Plan 2017-2023, the pattern of development in the area, the planning history for the site and the nature and scale of the proposed 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, would not seriously injure the residential or visual amenity of the area, would not detract from the character and setting of the adjoining protected structure, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian, cyclist 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 on the 07th May 2020 and, as amended, by the further plans and particulars submitted on the 25th day of August 2020, and by the further plans and particulars received by An Bord Pleanála on the 17th day of November 2020 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.

Reason: In the interest of clarity.

2. Block 2 shall be omitted from the proposed development and the area appropriately landscaped. A revised site layout plan showing these details shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interest of railway safety and the proper planning and sustainable development of the area.

3. (a) The design of Block 1 shall accord with the revised plans and elevations received by the Planning Authority as additional information on 25th August 2020.
(b) Prior to commencement of development the applicant/developer shall submit a sample of the stone proposed for the ground floor external walls on

the front elevation of Block 1 for the written agreement of the Planning Authority.

Reason: In the interest of protecting visual and residential amenities and the proper planning and sustainable development of the area.

4. Prior to commencement of development the applicant shall submit for the written agreement of the planning authority the following:
 - (a) A detailed design for the civic plaza area which provides specific detail on the materials and finishes to be used at this location.
 - (b) The developer shall provide a piece of public art or architectural feature located in the plaza area, to be designed in consultation with the Public Art Co-ordinator of Fingal County Council.

Reason: In the interest of visual amenity and to comply with Objective DMS05 of the Fingal Development Plan 2017-2023.

5. The following requirements in relation to the preservation of the Smyths Public House protected structure (RPS no.0509) shall be carried out in full and strictly adhered to:
 - (a) Prior to the commencement of development the applicant shall submit for the written agreement of the Planning Authority a Method Statement and Temporary Works Design which addresses the impact of the development on the adjoining historical buildings including site clearance works within the curtilage of Smyths Public House (RPS no. 0509) and, if appropriate, interventions to ensure the protection of the aforementioned historic buildings.
 - (b) A full photographic written and drawn record of existing and any additional outbuildings uncovered during the monitoring of the site clearance works within the curtilage of Smyths Public House shall also be submitted to the planning authority for their records.

Reason: To ensure an appropriate standard of development/conservation and protect the character of the protected structure.

6. Prior to commencement of development the applicant shall submit a final landscape plan for the written agreement of the planning authority to include the following:
 - (a) A street plan which clearly demonstrates the constructed tree pits of 16 cubic metre in plan and section format, to include position of lamp standards and underground services. No street tree shall be located within 7 metres of lamps standards.
 - (b) Full details of permitted playground, including details of all play units to be provided, seating, signage, bins and play surfaces and boundary treatment.

The landscaping plan shall be implemented within the first planting season following completion of construction works. 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 the 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 interest of residential and visual amenity.

7. A boundary treatment wall with a minimum height of 2.4 metres shall be constructed along the entirety of the eastern perimeter of the site. The height shall be measured from developers' side of the boundary. Precise details of this boundary treatment shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.

Reason: In the interest of safety in the operation of the railway.

8. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting, cycle paths/street and parking arrangements, including facilities for the recharging of electric vehicles. In particular:
- (a) The roads and traffic arrangements serving the site (including signage) and the proposed realignment of the junction at Main Street/Balcarrick Road including the proposed pedestrian crossing facility 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 details of pedestrian crossing facilities and associated infrastructure including any signalisation and associated ducting at the junction of Main Street/Village Link street shall be agreed with the planning authority in writing prior to commencement of construction.
 - (c) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;
 - (d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works, and
 - (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.

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

9. Mitigation and monitoring measures outlined in the Natura Impact Statement (including construction phase hoarding as indicated on CCK Drawing No.

0921 PA2 015 and those outlined in the Construction and Environmental Management Plan), the Ecological Impact Assessment, the Alien Invasive Plant Species Management & Control Plan and the Surface Water Management Plan received by the Planning Authority as additional information on 25th August 2020 shall be implemented 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.

10. The developer shall comply with the following requirements:

(a) All bathroom/ en suite windows shall be fitted and permanently maintained in obscure glass. The use of film is not permitted.

(b) No dwelling shall be occupied until all services have been connected and are operational.

(c) Each proposed house shall be used as a single dwelling unit.

Reason: In the interest of residential amenity.

11. Trees to be removed on site shall be felled in late summer or autumn.

Hedgerows to be removed shall be removed outside of bird nesting season.

Reason: In the interest of nature conservation.

12. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

13. No advertisement or advertisement structure shall be erected or displayed on the buildings (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.

14. 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 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.

15. Proposals for naming and numbering of the proposed 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 house/apartment numbers, shall be provided in accordance

with the agreed scheme. The proposed name(s) 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.

16. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services. The surface water drainage layout of the permitted development shall accord with Drawing no. C829-OCSC-XX-XX-DR-C-5501-S2-P05 received by the planning authority as additional information on 25th August 2020.

Reason: In the interest of public health.

17. The developer shall enter into water and/or wastewater connection agreements with Irish Water, prior to commencement of development. The location of the temporary foul pumping station shall be in accordance with the Irish Water Code of Practice for Pump Stations.

Reason: In the interest of public health.

18. 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:

- (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 and routing of construction traffic to and from the construction site 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 as per the submitted Noise Impact Assessment submitted to the planning authority on 7th May 2020, 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;
- (e) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;

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.

19. 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 amenities of property in the vicinity.

20. 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.

21. 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.

22. 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.

23. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be landscaped in accordance with the final landscaping scheme to be agreed with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

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

24. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

25. The developer shall comply with all requirements of Iarnrod Eireann in relation to boundary wall, security of the railway boundary, access, railway mounds and ditches, surface water, integrity of cutting, use of cranes adjacent to the railway boundary, wayleaves, overhanging, light spill, and informing future potential purchasers and / or tenants of possible noise and vibration that might be expected due to railway operations and maintenance.

Reason: In the interest of safety and the proper planning and sustainable development of the area.

26. 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.

27. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house unit), pursuant to Section 47 of the Planning and Development Act, 2000, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

28. 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 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

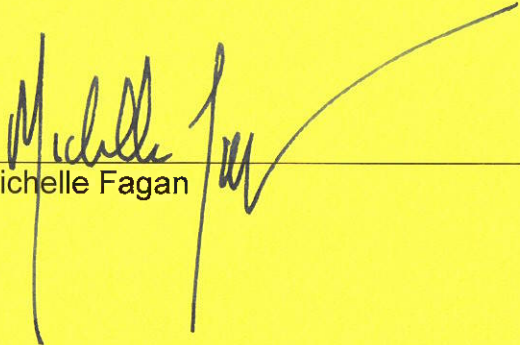
29. The developer shall pay to the planning authority a financial contribution in lieu of the public open space shortfall that arises based on the standards set out in Objectives DMS57 and Objective DMS57B of the Development Plan and in accordance with the terms of the Development Contribution Scheme 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.

30. 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


Michelle Fagan

Date: 27/08/2021

