



An
Bord
Pleanála

Board Direction
BD-008632-21
ABP-309668-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/06/2021.

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.

Reasons and Considerations

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

- (a) The planning history of the site.
- (b) The site's location on land with a zoning objective for residential development.
- (c) The policies and objectives in the Drogheda Docklands Area Plan issued by Louth County Council in February 2007, Drogheda Borough Council Development Plan 2011-2017, as extended and Louth County Development Plan 2015-2021.
- (d) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016.
- (e) The provisions of Project Ireland 2040 National Planning Framework.
- (f) The provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031.

- (g) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020.
- (h) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018.
- (i) The provisions 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.
- (j) The provisions of the Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009.
- (k) The nature, scale, and design of the proposed development.
- (l) the pattern of existing development in the area.
- (m) The submissions and observations received.
- (n) The Chief Executive's Report of Louth County Council; and
- (o) The Planning Inspectors Report.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within an zoned and adequately serviced urban site, the information in the Screening Statement for Appropriate Assessment, Natura Impact Assessment and the Ecological Assessment submitted with the application, the Inspector's Report, and submissions on file. In completing the Appropriate Assessment, the Board adopted the report of the Inspector and concluded that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of

the European Site River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) or Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957), or any other European Site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

Environmental Impact Assessment Screening

The Board completed a screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report included in the Planning Report submitted by the developer, identifies, and assesses 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 below the threshold in respect Class 10(b)(i) and Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on land zoned TCd - Docklands with the associated land use objective to provide for a mix of new town centre activities in accordance with Drogheda Docklands Area Plan 2007 in the Drogheda Borough Development Plan 2011-2017. The Louth County Development Plan 2015-2021 and Drogheda Borough Development Plan 2011-2017 were subject to a strategic environmental assessment in accordance with the Strategic Environmental Assessment Directive (SEA) (2001/42/EEC),
- the location of the site within the existing built up urban area and Drogheda Docklands Area, which is served by public infrastructure, and the existing pattern of development in the vicinity,
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(v) of the Planning and Development Regulations 2001, as amended,

- The provisions of 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).
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and
- The features and measures proposed by the developer, envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Outline Construction Management Plan, Preliminary Construction and Demolition Waste Management Plan and Operational Waste Management Plan, Preliminary Construction and Demolition Waste Management Plan, the Contamination Risk Assessment, Site Synopsis Report and Ecological Report submitted as appendices of the Screening Statement for Appropriate Assessment and Natura Impact Statement .

In conclusion, having regard to the absence of any significant environmental sensitivity in the vicinity 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 and the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development

The Board considered that the proposed development is, apart from the parameters of Table 2.5, Table 4.3 and Policy RES 18: Density, Policy RES 19: Building Height, Table 7.6 Car Parking and Table 4.5 Apartment Floor Areas in the Louth County Development Plan 2015-2021; Table 6.2 and Policy HC17: Density and Table 4.5: Car Parking of the Drogheda Borough Council Development Plan 2011-2017, as extended; and section 3.7: Building Height of the Drogheda Docklands Area Plan 2007, broadly compliant with the provisions of the Louth County Development Plan 2015-2021, Drogheda Borough Council Development Plan 2011-2017, as extended and Drogheda Docklands Area Plan, 2007 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 the Louth County Development Plan 2015-2021, Drogheda Borough Council Development Plan 2011-2017, as extended and Drogheda Docklands Area Plan 2007 as outlined below: -

Louth County Development Plan 2015-2021,

- Density: Table 2.5 which sets out an average density for Drogheda and Environs of 40 number units per hectare and Table 4.3 and Policy RES 18 which set out a minimum density of 30 number units per hectare for centrally located sites in towns and villages.
- Height: Policy RES 19 which states that building shall not exceed three storeys in height, except in exceptional circumstances where four storeys can be accommodated or where provision for higher buildings is provided for in any local area plan.
- Car Parking: The standards set out in Table 4.6 which require one number car parking space per apartment and one number car parking space per six number children in a creche.
- Apartment Floor Areas: Table 4.5 Space Provision and Room Sizes for Typical Dwellings of the Louth County Development Plan 2015-2021 specifies a target floor area and room sizes for apartments.

Drogheda Borough Council Development Plan 2011-2017, as extended

- Density: Table 6.2 and Policy HC17 which set out a minimum density target of 30 number units per hectare for town centre sites.
- Car Parking: The standards set out in Table 5.3 which require one number car parking space per apartment, one number car parking space per six number children and one number car parking space per three number staff in a creche.

Drogheda Docklands Area Plan 2007

- Height: section 3.7 which states in general a maximum height of six storeys plus setback storey on the waterfronts, stepping down to a maximum of four storeys plus setback storey adjacent to Marsh Road.

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 Louth County Development Plan 2015-2021, Drogheda Borough Council Development Plan 2011-2017, as extended, and Drogheda Docklands Area Plan 2007 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, as amended.
- Government's policy to provide more housing set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016.

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 Louth County Development Plan 2015-2021, Drogheda Borough Council Development Plan 2011-2017, as extended, and Drogheda Docklands Area Plan 2007 would be justified for the following reasons and considerations:

Density:

The proposed material contravention of Table 2.5, Table 4.3 and Policy RES 18 of the Louth County Development Plan 2015-2021 and Table 6.2 and Policy HC17 of the Drogheda Borough Council Development Plan, 2011-2017, as extended, is justified by reference to: -

- Objectives 35 of Project Ireland 2040 National Planning Framework which support increased densities at appropriate locations.
- Section 4.5 Regional Growth Centres of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, to realise a

more consolidated urban form that will optimise the uses of existing and planned services by increasing population and employment density in a sustainable fashion.

Height

The proposed material contravention of Policy RES 19 of the Louth County Development Plan 2015-2021 and section 3.7 of the Drogheda Docklands Area Plan 2007 is justified by reference to: -

- Objectives 13 and 35 of the Project Ireland 2040 National Planning Framework which support increased building heights at appropriate locations.
- Specific Planning Policy Requirement 3 of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018 which support increased building heights.

Car Parking

The proposed material contravention of Table 7.6 of the Louth County Development Plan 2015-2021 and Table 4.5 of the Drogheda Borough Council Development Plan 2011-2017, as extended is justified by reference to: -

- Appendix 1: Required Minimum Floor Areas and Standards of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020.

Apartment Floor Areas

The proposed material contravention of Table 4.5 of the Louth County Development Plan 2015-2021 is justified by reference to: -

- Section 4.19 and 4.20 Car Parking: Central and or Accessible Urban Locations of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020.

In accordance with section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, the Board considered that the criteria in section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, 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, 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, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. 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, 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 disused steps linking Marsh Road to Dublin Road shall be reinstated at the developer's expense. Details of the works shall be submitted to and agreed in writing with the planning authority. No residential unit shall be occupied until these works are completed. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of sustainable travel and to ensure the satisfactory completion of the works.

3. The upgrades to Poorhouse Lane, including lighting provision and the road crossing proposed on the Dublin Road shall be completed to the satisfaction of the planning authority. No residential unit shall be occupied until these works are completed. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of pedestrian and traffic safety and to ensure the satisfactory completion of the works.

4. Details of signage relating to the creche unit and two number, retail, café and restaurant units shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. 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.

6. 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.

7. Proposals for an apartment naming 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 signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements or marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement on the proposed name(s).

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

8. Prior to commencement of development the developer shall agree in writing with the planning authority the requirement for a piece of public art within the site. All works shall be at the developer's expense.

Reason: In the interest of place making and visual amenity.

9. Prior to commencement of development the developer shall submit, for the written agreement of the planning authority, proposals to provide ramped and accessible access to the area of communal open space located between Block C and the sites eastern boundary.

Reason: In the interest of residential amenity.

10. Prior to commencement of development the developer shall agree in writing with the planning authority the requirement for a children's play area within the central area of public open space. All works shall be at the developer's expense.

Reason: In the interest of residential amenity and place making.

11. A public lighting proposal shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The public lighting proposal shall minimise light spill in general and in particular onto the adjacent River Boyne and shall be approved by a bat specialist.

Reason: In the interests of amenity and to promote biodiversity.

12. Bat and bird boxes shall be installed in the proposed development, prior to the occupation of the residential units. The number, type and location of the boxes shall be submitted to and agreed in writing with the planning authority.

Reason: To promote biodiversity.

13. The developer shall facilitate 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,
- (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. 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.

15. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

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

16. The internal road network serving the proposed development, including the barrier system to the shared surface from March Road, turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets. 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.

17. Prior to commencement of development a Construction Traffic Management Plan shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of road safety.

18. Prior to commencement of development details of the works to the public road, shall be submitted to, and agreed in writing with the planning authority.

Reason: In the interest of road safety.

19. Prior to the opening or occupation of the development, a Mobility Management Strategy including an interim or temporary strategy reflecting any requirements

or adjustments relating to Covid-19 movement and travel patterns shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents, occupants and staff employed in the development and to reduce and regulate the extent of parking. Details may include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The interim or temporary strategy, where applicable, should reflect the requirements of Design Manual for Urban Roads and Street Interim Advice Note – Covid Pandemic Response May 2020. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.

20. 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 have 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

21. 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

22. The site shall be landscaped, in accordance with the scheme of landscaping, which accompanied the application. The developer shall appoint and retain the services of a qualified Landscape Architect or qualified Landscape Designer as a Landscape Consultant, throughout the life of the construction works, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity

23. 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 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

24. 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.

25. 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.

26. 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

27. 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 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.

28. 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.

29. 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 hours of working, noise management measures and off-site disposal of construction and demolition waste.

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

30. 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.

31. 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

32. 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

Terry Ó Niadh
Terry Ó Niadh

Date: 29/06/2021

DECISION QUASHED