

**An
Bord
Pleanála**

**Board Direction
BD-008705-21
ABP-309846-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 14/07/2021.

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 policies and objectives as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and the Kiltarnan-Glenamuck Local Area Plan 2013, as extended;
- (b) The provisions of Project Ireland 2040 National Planning Framework;
- (c) The provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031;
- (d) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (e) 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;
- (f) The provisions of the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual, A Best Practice

Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;

(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 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;

(i) The nature, scale and design of the proposed development;

(j) The residential land use zoning of the site;

(k) The pattern of existing and permitted development in the area;

(l) The submissions and observations received;

(m) The Chief Executive's Report of Dún Laoghaire-Rathdown County Council;

(n) The report of the 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 European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban site, the information for the Appropriate Assessment Screening Report submitted with the planning 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.

Environmental Impact Assessment Screening

The Board completed an Environmental Impact Assessment screening of the proposed development and considered that the Screening for Environmental Impact Assessment Report contained in section 15 of the Planning Report and Statement of Consistency submitted by the developer, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(i) and (iv) of Schedule 2, Part 5 of the Planning and Development Regulations, 2001, as amended,
- (b) the location of the site on land zoned "A" in the Dún Laoghaire-Rathdown County Development Plan 2016-2022, with the objective to protect and or improve residential amenity and the compliance of the proposed development with the policies, objectives and development management standards outlined in the Development Plan and of the Kiltarnan-Glenamuck Local Area Plan 2013, as extended to 2023,
- (c) the pattern of development on the lands in the surrounding area,
- (d) the availability of mains water and wastewater services to serve the development,
- (e) the location of the development outside any sensitive location specified in Article 299(c)(1)(v) of the Planning and Development Regulations, 2001, as amended,
- (f) the guidance set out 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),
- (g) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended,
- (h) the features and measures proposed by the applicant to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment and Construction and Demolition Waste Management Plan,

it is considered that the proposed development, by reason of the nature, scale and location of the subject site, would not be likely to have significant effects on the environment 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 phasing parameters of the Kiltarnan-Glenamuck Local Area Plan 2013, as extended to 2023, broadly compliant with the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and the Kiltarnan-Glenamuck Local Area Plan 2013, as extended to 2023, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered 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 Local Area Plan with respect to the programme and phasing of development. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act, 2000, as amended, a grant of permission in material contravention of the Local Area Plan would be justified for the following reasons and considerations:

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and complies with the Government's policy to increase the delivery of housing as set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016.

In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the proposed development is in accordance with national policy as set out in the Project Ireland 2040 National Planning Framework, specifically, National Policy Objective 3(b) which seeks to deliver at least 50% of all new homes targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built up footprints. The proposed development would also supply 94

number high quality apartment units in compliance with 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 relation to section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended, the Board has previously granted planning permission for residential schemes in the immediate vicinity of the subject site, including 197 number residential units (An Bord Pleanála Reference Number ABP-306160-19) and 203 number residential units (An Bord Pleanála Reference Number ABP-303978-19) on the eastern side of the Enniskerry Road and 116 number residential units and a childcare facility on the adjoining lands to the south (An Bord Pleanála Reference Number ABP-307043-20). The proposed development will reflect the pattern of these permitted developments.

Furthermore, the Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height, density and quantum of development and would be acceptable in terms of pedestrian 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, 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and 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. Proposals for an estate and street name, house 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 house 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 and 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 and to ensure the use of locally appropriate place names for new residential areas.

4. (a) The proposed childcare facility shall be completed and operational prior to the completion of Phase 1 of the development as illustrated on Drawing Number 6237-007 Rev. PL1 (Phasing Plan) submitted with the planning application.

(b) Details of the signage for the childcare facility shall be submitted for the written agreement of the planning authority prior to its occupation.

(c) The proposed childcare facility shall not operate outside the period of 0700 to 1800 hours Monday to Friday inclusive, and shall not operate on Saturdays, Sundays or public holidays.

Reason: In the interest of residential amenity.

5. No additional development shall take place above the roof parapet level of the apartments, 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.

6. (a) The landscaping scheme shown on Drawing Number 101 (Landscape Masterplan), as submitted with the planning application, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, with 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.

(b) The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation.

(c) Prior to the commencement of development, the developer shall retain the professional services of a qualified Landscape Architect as Landscape Consultant throughout the life of the site development works and shall notify the planning authority of that appointment in writing.

(d) When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, a Practical Completion Certificate shall be submitted for the written agreement of the planning authority, as verification that the approved landscape plans and specifications have been fully implemented.

Reason: In the interest of residential and visual amenity.

7. 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 the commencement of development:

(a) The road layout including, junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings, car parking bay sizes and road access to the development 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, and any requirements of the planning authority for such road works. A minimum width of three metres shall be provided for any shared pedestrian and cycle routes.

(b) All roads shown connecting to adjoining lands shall be constructed up to the boundaries. These areas shall be shown for taking in charge on a drawing to be submitted and agreed with the planning authority.

(c) The materials used in any roads, footpaths and set down areas provided by the developer shall comply with the detailed standards of the planning authority for such road works.

(d) The developer shall carry out at their own expense, the recommendations and alternative measures as accepted by the designer in the submitted Preliminary Design Stage Quality Audit Appendix B Feedback Form. The developer shall carry out a Stage 2 and Stage 3 Quality Audit which shall include a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit, which shall be submitted to the planning authority for its written agreement. The developer shall carry out all agreed recommendations contained in the audits, at the developer's expense.

Reason: In the interests of traffic and pedestrian safety.

8. 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.

9. Prior to the making available for occupation of any of the units, all the proposed links to the adjoining Golden Ball site to the southeast, shall be satisfactorily completed at the developer's expense and available for public use.

Reason: In the interest of permeability and connectivity.

10. A minimum of 10% of the communal car parking spaces should be provided with 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, the developer shall submit 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.

11. 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 the 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.

12. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

13. The mitigation measures outline in the Ecological Impact Assessment submitted with this application, shall be carried out in full, except where otherwise required by conditions of this permission.

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

14. 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 prior to commencement of 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.

15. 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 the commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

16. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, drawings showing all development works to be taken in charge designed to meet the standards of the planning authority.

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

17. The construction of the development shall be managed in accordance with a Construction Management Plan and Environmental Management Construction 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 and dust management measures, traffic management arrangements and measures and off-site disposal of construction and demolition waste.

Reason: In the interests of public safety.

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

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

19. Prior to the 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.

20. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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.

21. 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 occupation of the development.

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

22. 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.

23. 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.

24. 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.

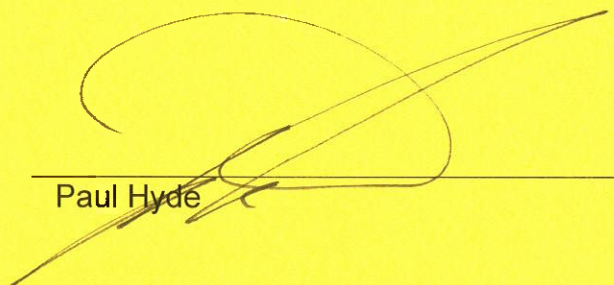
25. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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.

26. The developer shall pay to the planning authority a financial contribution in respect of the Glenamuck District Distributor Road Scheme and the Surface Water Attenuation Ponds Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Board Member



Paul Hyde

Date: 14/07/2021

