

**An
Bord
Pleanála**

**Board Direction
BD-009011-21
ABP-310274-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/09/2021.

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 lands within a zoning objective which includes residential development;
- c) The policies and objectives in the Cork County Development Plan 2014 and the Ballincollig Carrigaline Municipal District Local Area Plan 2017.
- d) Nature, scale and design of the proposed development.
- e) Pattern of existing development in the area.
- f) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016.
- g) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018.
- h) The Regional Spatial Strategy for the Southern Region (2020).
- i) 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.

- j) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2020.
- k) The Urban Development and Building Heights Guidelines for Planning Authorities 2018.
- l) Architectural Heritage Protection Guidelines, 2011.
- m) Chief Executive's Report,
- n) Submissions and observations received.
- o) The Report of the 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 adequately serviced urban site, the information for the Screening Report for Appropriate Assessment and the Ecological Statement submitted with the application, the Inspector's Report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Impact Assessment Screening Statement submitted by the applicant, which contains the information set out in Schedule 7A to the Planning and Development Regulations 2001-2021, as well as 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 below the threshold in respect of classes 10(b)(i) and 10(b)(iv) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2021;
- Class 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2021;
- The location of the site on lands zoned 'Medium B density residential development'. Cork County Development Plan 2014 and the Ballincollig Carrigaline Municipal District Local Area Plan 2017 and the results of the Strategic Environmental Assessment of this Plan,
- The location of the site in a semi urban 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)(a)(v) of the Planning and Development Regulations 2001- 2021;
- 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 2001-2021, and;
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Environmental Management Plan.

It is considered that 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 considered that the proposed development is, apart from the parameters of specific local objective SE-R-10 'Medium B density residential development' pertaining to the development site contained within the Ballincollig / Carrigaline Municipal District Local Area Plan 2017 compliant with the provisions of the Cork County Development Plan 2014 and the Ballincollig / Carrigaline Municipal District Local Area Plan 2017 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 specific local objective SE-R-10 in permitting a density of 38.7 units/ha, in excess of the Medium B density range outlined in L.A.P. The Board considers that, having regard to the provisions of section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Cork County Development Plan 2014 and the Ballincollig / Carrigaline Municipal District Local Area Plan 2017 would be justified for the following reasons and considerations:

- the proposed development is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase the delivery of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016 and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment. Accordingly, the provisions set out under section 37(2)(b)(i) are applicable;
- it is considered that permission for the proposed development should be granted having regard to guidelines under section 28 of the Act and the National Planning Framework, specifically: in relation to the matter of minimum densities, SPPR 4 of the Building Height Guidelines and national policy in Project Ireland 2040 National Planning Framework (in particular objectives 33 and 35). An assessment of the proposed development was carried out to determine that the proposed development conforms with the development management criteria in section 3.2 of the Urban Development and Building Height Guidelines which prioritise the provision of new homes at locations that can support sustainable development

and at an appropriate scale of provision relative to location and increase densities in settlements. The Regional Spatial Strategy for the Southern Region (2020), seeks to achieve compact growth in the Metropolitan Area through prioritising housing and employment development in locations within and contiguous to existing city footprints where it can be served by public transport, walking and cycling.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i) and (iii) 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, 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, 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: AND revised plans shall be submitted for the written agreement of the planning authority prior to the commencement of development:
 - A. House no 1 (Type D) shall be omitted from the scheme and this site area shall be incorporated in the open space area for Block 1. The bike and bin store shall be repositioned to this area.
 - B. House No.'s 2-5 inclusive shall be redesigned as dormer style units with roof lights to the rear and repositioned further to the east. The new house design/type for site no 2 shall be designed to address the corner.
 - C. Where balconies are located close to each other or to bedrooms in adjoining apartments, permanent end screens shall be placed on all of these balconies. Permanent end screens shall also be placed on balconies which face west in Apartment Block 1.
 - D. The attic/roof design for the remainder of the houses shall be designed to incorporate roof pitches and timbers capable of accommodating a future attic conversion.

Reason: In the interests of residential amenity.

3. The Creche shall be amended and revised to ensure it will be fit for purpose. Details of the design shall be submitted to 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 interests of orderly development and to comply with the relevant regulations.

4. The operating hours and occupier of the proposed café unit shall be agreed in writing with the planning authority prior to first occupation of the unit.

Reason: In the interests of protecting the residential amenities of adjoining properties

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 / 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/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.

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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.

9. Prior to the commencement of any house or duplex unit 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 or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units 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.

10. The internal road network serving the proposed development, including 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 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.

11. The developer shall comply with the requirements of the planning authority in relation to roads, access, lighting and parking arrangements. In particular:

- (a) All findings of the Quality/Road Safety Audit shall be incorporated into the development. A Stage 3/4 Road Safety Audit shall also be undertaken, and implemented at the appropriate stage of development.
- (b) Prior to the development commencing the applicant shall submit to and agree in writing with the planning authority full details of the materials, finishes, road markings and other measures in relation to the pedestrian crossing and associated traffic management and ancillary design measures, of the Waterfall Road to The Rise/Halldene. All road modifications and improvements shall be carried out by the applicant.
- (c) Prior to the development commencing the applicant shall submit to and agree in writing with the planning authority full details of the materials, finishes and other measures in relation to Transition Zones and Gateways on the Waterfall Road. All road modifications and improvements shall be carried out by the applicant.
- (d) Prior to the development commencing the applicants shall submit to and agree in writing with the planning authority full details of cycling infrastructure.

- (e) A maximum of 274 car parking spaces to be provided for the residential housing elements of the development. A maximum of 120 parking spaces provided for the apartments. Car parking for the creche to be provided at a maximum rate of 1 per 3 staff plus 1 per 10 children. Disabled parking to be provided at a rate of 5% of the overall parking provision (where relevant – excludes on curtilage parking).
- (f) A minimum of 314 cycle parking spaces to be provided as part of the development. The location, design and management of the residential cycle parking for apartments to be in accordance with the Sustainable Urban Housing: Design Standards for New Apartments.
- (g) The location of the proposed pedestrian crossing on the Waterfall Road to be agreed in advance of commencement of the development with Cork City Council.

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

12. Prior to the occupation of the development, a Mobility Management Strategy 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 in the development and to reduce and regulate the extent of parking. 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.

13. Water supply and 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.

14. 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.

15. (i) 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.

(ii) In addition to the proposals in the submitted landscaping scheme, the following shall be carried out:

- a) The landscaping scheme shall be modified to take into account the design changes set out in Condition No 2 above.
- b) The scheme shall also include additional tree planting in the grounds of Block 1 (i.e. between Block 1 and the adjoining third party property to the west).
- c) The landscaping scheme shall be incorporated into the phasing scheme of the development and carried out within the first planting season following substantial completion of external construction works for each phase.
- d) All details of the play facilities and passive recreation facilities
- e) Details of all boundary treatments
- f) Provision of a designated pedestrian pathways through the biodiversity corridor.

Revised plans and particulars and documentation showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(iii) 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 or until the development is taken in charge by the local authority, whichever is the sooner, 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

16. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

17. The applicant shall be responsible for the diversion of the power lines, the costs of relocating same and shall notify the relevant statutory body undertakers, for obtaining any necessary licenses, and for notifying the planning authority of the revised locations of such utilities, prior to commencement of development, or, at the discretion of the planning authority, within such further period or periods of time as it may nominate in writing.

Reason: To protect existing utility infrastructure.

18. 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.

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 residential amenities of property in the vicinity

20. 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/demolition waste.

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

21. Mitigation and monitoring measures outlined in the plans and particulars, including the Bat Assessment Report and Ecological Hedgerow Appraisal Report, shall be carried out in full, except where otherwise required by conditions attached to this permission. A qualified ecological specialist shall monitor these works.

Reason: In the interest of protecting the environment and biodiversity

22. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

23. 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. Street lighting in private areas shall be independent to the public lighting power supply. Public lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of residential amenity and nature conservation.

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 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.

25. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of:

- Modification of pedestrian measures the junction at Halldene Villas/The Rise,
- Provision of 2 no. junctions of The Rise/Waterfall Road.
- Provision of public footpath connecting Halldene Villas with the Waterfall Road

The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

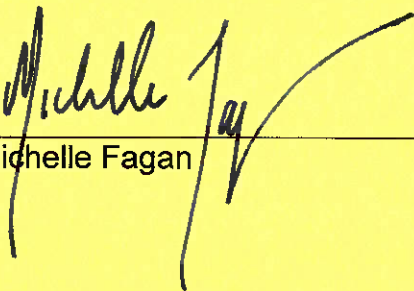
Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

26. 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: 02/09/2021