



An
Bord
Pleanála

Board Direction
BD-009081-21
ABP-310350-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 14/09/2021.

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 policies and objectives set out in the Fingal Development Plan 2017-2023,
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (d) the Design Manual for Urban Roads and Streets (DMURS), 2013
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (h) the nature, scale and design of the proposed development,

- (i) the availability in the area of a wide range of social, community and transport infrastructure,
- (j) the pattern of existing and permitted development in the area,
- (k) the planning history within the area,
- (l) the submissions and observations received,
- (m) the report of the Chief Executive of Fingal County Council, and
- (n) 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 serviced urban site, the information for the Screening for Appropriate Assessment 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

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) The nature, scale, location and extent of the proposed development;
- (b) The environmental impact assessment report and associated documentation submitted with the application;
- (c) The reports and submissions received from observers and prescribed bodies;
- (d) The Inspector's report;

The Board agreed with the summary of the results of consultations and information received in the course of the Environmental Impact Assessment, and the examination of the information contained in the Environmental Impact Assessment Report and the associated documentation submitted by the applicant and the submissions made in the course of the application as set out in the Inspector's Report. The Board is satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision.

Reasoned Conclusions on the Significant Effects:

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. A Construction and Demolition Waste and By-Product Management Plan and Outline Construction Traffic Management Plan are the overarching general mitigation embedded in the project design and delivery for the construction stage. The main significant effects, both positive and negative are:

- A positive impact with regard to population and material assets due to the increase in housing stock that would be made available in the city.
- Traffic and Transport: Potential for moderate short term impacts in terms of construction traffic will be mitigated as part of a construction management plan. There will be no significant negative impact on traffic junctions in the immediate area and any potential impact will be mitigated by way of design and implementation of the Car Parking and Mobility Management Strategy for the development.

- **Landscape and Visual Impacts:** There will be changed views from various locations given the change from a largely vacant brownfield/greenfield site to a high density residential development with mix of uses. The lands are zoned for town and district centre development and the proposal is not expected to involve the introduction of new or uncharacteristic features into the local or wider landscape character setting, relative to what exists in the immediate and wider evolving town centre area. The potential impact will be mitigated by the design, retention of specified trees and hedgerows along the southern boundary, and proposed landscaping. The proposed development would not have a significant negative impact on the landscape.
- **Biodiversity Impacts:** Potential impacts will be mitigated by a range of measures identified in the EIAR, including the retention of a treeline and hedgerow along the southern boundary. The proposed development would not have a significant negative impact on biodiversity.
- Potential impacts on water are proposed to be mitigated by construction management measures and implementation of SUDS measures.
- Potential impacts on air quality and climate will be mitigated by measures set out in the EIAR.
- Potential effects arising from noise and vibration during construction will be mitigated by appropriate management measures.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, as set out in the environmental impact assessment report and, subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting Inspector.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this

urban location, would not seriously injure the residential or visual amenities of the area, 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.

In relation to the number of apartments per floor per stair lift core, the Board considers the proposed development would be a material contravention of Objective DMS23 of the Fingal Development Plan 2017-2023, which applies to the site. In accordance with section 37(2)(b) (iii) of the Planning and Development Act 2000, as amended, having regard to SPPR 6 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, the proposed number of apartments per floor per core complies with SPPR6 of the 2020 guidelines as a maximum of 12 apartments per floor per core may be provided in apartment schemes. Compliance with SPPR6 is mandatory under section 28(1C) of the planning act. Permission should not be refused, therefore, on the basis of a material contravention of Objective DMS23 of the development plan which requires a lesser number of apartments per floor per core. A grant of permission in contravention of that provision would therefore be justified under section 37(2)(b)(iii) of the planning act to give effect to guidelines on Design Standards for New Apartments, issued by the Minister in 2020.

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. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report, as set out in Appendix 1A of the EIAR 'Table of Mitigation and Monitoring Measures' shall be carried out 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.

3. Prior to commencement of any works on site, revised details shall be submitted with regard to the following:

- (a) Privacy screens between balconies of the apartments.
- (b) Privacy screens, including height and materials, to all of the roof terraces.
- (c) Full details of proposed green roof.

Revised drawings showing compliance with these requirements shall be submitted to, and 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 interests of proper planning and sustainable development and to safeguard the amenities of the area.

4. Access to the roof terraces shall be restricted to residents of the scheme between the hours of 0700 and 2200 Monday to Sunday.

Reason: In the interests of residential amenity.

5. Not more than 75% of residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed (at this time).

Reason: To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.

6. Details of the materials, colours and textures of all the external finishes to the proposed buildings and detailed public realm finishes, including pavement finishes and bicycle stands, shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. The two number retail/commercial units permitted shall be used solely for purposes in accordance with Class 1 and Class 2 of Part 4, Schedule 2 of the Planning and Development Regulations 2001, as amended. The office suites permitted shall be used solely for purposes in accordance with Class 2 or 3 of Part 4, Schedule 2 of the Planning and Development Regulations 2001, as amended. The health/medical centre permitted shall be used solely for purposes in accordance with Class 8(a) of Part 4, Schedule 2 of the Planning and Development Regulations 2001, as amended.

Reason: In the interest of clarity.

8. Details of all external shopfronts, lighting, signage and internal security shuttering shall be as submitted to, and agreed in writing with, the planning authority prior to-occupation of the commercial/retail units. No external security shutters shall be erected for any of the commercial premises unless authorised by a further grant of planning permission.

Reason: In the interest of the amenities of the area/visual amenity.

9. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

10. No additional development shall take place above roof parapet level of the apartment buildings, other than that allowable under condition 3(c), 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, and to allow the planning authority to assess the impact of any such development through the planning process.

11. Proposals for a development name, commercial unit identification 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 such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

12. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development/installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

Reason: In the interest of public safety and visual amenity.

13. 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.

14. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development.

(b) 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 also to prevent inappropriate commuter parking.

15. Details of the bicycle parking space location, layout, access to the basement, storage arrangement, marking demarcation, and security provisions for bicycle spaces shall be submitted for the written agreement of the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

16. A Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post construction stage. All audits shall be carried out in accordance with the Design Manual for Urban Roads & Streets (DMURS) guidance and TII (Transport Infrastructure Ireland) standards. Where the audit identified the need for design changes revised design details should be submitted to and agreed in writing with the Planning Authority. The developer shall carry out necessary works in accordance with the agreed revised design. The Stage 2 Audit reports shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.

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

17. The developer shall comply with all requirements of the planning authority in relation to all works to be carried out on the public road/footpath, and areas to be taken in charge. Provision for cyclists shall comply with latest National Cycle Manual and DMURS guidance.

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

18. A minimum of 10% of all car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/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.

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 Streets 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. 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 the commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 – Detailed Design Stage Stormwater Audit. Upon completion of the development, a Stage 3 Completion Stage Stormwater Audit to demonstrate that Sustainable Urban Drainage Systems measures have been installed, are working as designed, and that there has been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

21. Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.

Reason: In the interest of public health.

22. (a) The developer shall consult with the IAA and DAA in respect to developing a strategy in relation to the use of cranes during construction, and the IAA and DAA requirements in this regard shall be submitted to the planning authority for the written agreement prior to commencement of development.

(b) Prior to the commencement of the development the applicant shall contact the Irish Aviation Authority in relation to all crane operations, with a minimum of 30 days prior notification of their erection.

Reason: In the interest of aviation safety.

23. A comprehensive boundary treatment and revised landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior

to commencement of development. This scheme shall include the following:

- (a) a detailed scheme for the planting of trees along the pedestrian boulevard;
- (b) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (c) proposed locations of trees at appropriate intervals and other landscape planting in the development, including details of the size, species and location of all vegetation, including biodiversity enhancement measures;
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes;
- (e) details in relation to public furniture/benches and public artwork;
- (f) details in relation to layout and design of playground facilities and equipment;
- (g) details of a Landscape Management and Maintenance Plan of both communal residential and publicly accessible areas to be implemented during operation of the development. All planting shall be adequately protected from damage until established and maintained thereafter. Any plants which die, are removed or become seriously damaged or diseased in the first 5 years of planting, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interests of amenity, ecology and sustainable development.

24. All recommended measures outlined in the submitted Arboriculture Assessment and Tree Protection Plan shall be implemented in full. Prior to the commencement of construction works on site, a meeting with the developer and Fingal County Council shall take place on site to ensure all tree protection measures have been carried out appropriately.

Reason: In the interests of biodiversity and protection of trees.

25. 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.

26. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

27. The construction of the development shall be managed in accordance with a Construction and Environmental 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 detailed traffic management plan, hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

28. 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.

29. 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 the commencement of development.

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

30. 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.

31. 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.

32. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

33. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, 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.

34. Prior to the commencement of development, the developer shall enter into an agreement with the Planning Authority to provide for the payment of a financial contribution to the Planning Authority in lieu of open space as provided for under Objective DMS57B of the Fingal Development Plan 2017-2023 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 manner of payment and amount of payment 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: In the interest of the proper planning and sustainable development of the area.

35. 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: 15/09/2021

