



**An
Bord
Pleanála**

**Board Direction
BD-009123-21
ABP-310413-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/09/2021.

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 location of the site in the established urban area of Howth in an area zoned for residential (under Objective RS 'RS' Residential – 'Provide for residential development and protect and improve residential amenity', with undeveloped area to the south zoned 'HA' High Amenity – 'Protect and enhance high amenity areas');
- (b) the policies and objectives of the Fingal Development Plan 2017-2023;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) 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;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;

- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2020;
- (g) 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 2013;
- (h) Architectural Heritage Protection- Guidelines for Planning Authorities 2011;
- (i) The nature, scale and design of the proposed development and the availability in the area of public transport and water services infrastructure;
- (j) The pattern of existing and permitted development in the area;
- (k) The planning history of the area, including its partial location in the Buffer Zone to the Howth Special Amenity Area and in the setting of the Howth Demesne Architectural Conservation Area and Protected Structures in the ACA (particularly Howth Castle);
- (l) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan;
- (m) The submissions and observations received;
- (n) The Chief Executive Report from the Planning Authority and specifically the recommended reasons for refusal; and
- (o) The report of the Inspector.

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 appropriate to the historic sensitivity of the site and would otherwise be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1

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 area, the Natura Impact Statement Report 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, other than Baldoye Bay Special Area of Conservation (Site Code: 000199), Howth Head Special Area of Conservation (Site Code: 000202), Baldoye Bay Special Protection Area (Site Code: 004016), North Bull Island Special Protection Area (Site Code: 004006), Ireland's Eye Special Protection Area (Site Code: 004117), Malahide Estuary Special Protection Area (Site Code: 004025), South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), Lambay Island Special Protection Area (Site Code: 004069), Rogerstown Estuary Special Protection Area (Site Code: 004015), and Skerries Islands Special Protection Area (Site Code: 004122) which are European Sites where the likelihood of significant effects could not be ruled out.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on Baldoye Bay Special Area of Conservation (Site Code: 000199), Howth Head Special Area of Conservation (Site Code: 000202), Baldoye Bay Special Protection Area (Site Code: 004016), North Bull Island Special Protection Area (Site Code: 004006), Ireland's Eye Special Protection Area (Site Code: 004117), Malahide Estuary Special Protection Area (Site Code: 004025), South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), Lambay Island Special Protection Area (Site Code: 004069), Rogerstown Estuary Special Protection Area (Site Code: 004015), and Skerries Islands Special Protection Area (Site Code: 004122), in view of the sites'

conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- a) the site-specific conservation objectives for the European sites,
- b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and in particular the risk of impacts on surface water and ground water quality,
- c) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites in view of the sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

This conclusion is based on the measures identified to control the quality of surface water discharges which provide for the interception of silt and other contaminants prior to discharge from the site during construction and operational phases.

Environmental Impact Assessment Screening

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

- (a) the nature, scale and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,

(c) the submissions from the Planning Authority, the observers and prescribed bodies in the course of the application,

(d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) 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 proposed development on the environment, taking into account current knowledge and methods of assessment and the results of the examination set out in the Inspector's Report. 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 Environmental Management Plan is the overarching general mitigation relevant to the project design and delivery for the construction stage.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

Population and human health - positive impacts in relation to the provision of new homes in close proximity to public transport, increased economic activity and with the provision of new public open space. Cumulative impact upon local infrastructure is concluded to be a neutral effect, ranging from slight to moderate. Mitigation has been incorporated into the design to promote healthier living standards, the application of measures in a Construction and Environmental Management Plan and Construction Waste Management Plan during construction will also reduce impact upon human health. No other mitigation is required during the operational phase.

Biodiversity – with mitigation in place, no long-term significant impacts are expected. No residual impact upon internationally or nationally significant receptors will arise with mitigation in place. Residual impact upon biodiversity will be locally significant, with suitable mitigation in place to reduce impact on high value receptors. Mitigation includes the implementation of measures in a Construction and Environmental Management Plan during the construction phase, to protect trees and reduce risk of discharge from the site, and ensure lighting is sensitive to bats. Removal of vegetation will be avoided during bird breeding season or require inspection by an ecologist prior to removal. During the operational phase, the incorporation of a range of measures, including green roofs, permeable paving, rain gardens, attenuation tanks, new tree planting and wild bird cover seeding will reduce impact.

Land, soils, geology, water, air quality or climate - with the implementation of mitigation through management measures in the Construction Demolition and Waste Management Plan, as well as surface water management, attenuation and drainage of foul waters, no significant negative impacts are envisaged.

Noise and vibration – during the construction phase, negative impacts are anticipated, ranging from imperceptible to moderate – significant. These impacts will be on a short-term, temporary basis and will be mitigated through measures in the Construction and Environmental Management Plan. During the operational phase, sound insulation will be incorporated into the buildings and control of use of roof terrace areas. With mitigation in place, impact during operational phase will be neutral, long-term and ranging from imperceptible to not significant.

Transportation – the main impact from the development will be during the operational phase, with the use of mitigation measures described in the Construction and Environmental Management Plan limiting residual impact during construction to slight neutral temporary effects. During the operational phase, negative long-term effects are anticipated on the Sutton Cross junction and upon public transport in terms of increased congestion and reliance on services. However, this impact is not significant, and in the ‘no development scenario’ the Sutton Cross junction would still be over capacity. Reduced car parking is intended to promote use of more sustainable transport modes. Public transport improvements are also planned and will increase the frequency of trains. Overall, impact will be within acceptable parameters.

Material Assets - Archaeology and cultural heritage - no significant permanent adverse impacts upon archaeological cultural heritage are anticipated, with the application of mitigation measures. Amendments are necessary to improve the relationship of the proposed development to the historic context of the site, including the reduction by a storey over all blocks, and reduced footprint to block C, alongside associated increased tree planting to the northeast and southern boundary of the site. With the incorporation of these amendments, a neutral effect will result upon built cultural heritage. Mitigation also includes the incorporation of conservation practice standards to the repair and refurbishment of the historic demesne wall, and creation of sensitivity located new openings.

Material Assets – Utilities and waste - positive long-term effects are anticipated from the expansion of Virgin Media infrastructure and electricity connection into the site, with neutral effect from the diversion of gas services. No significant effects are anticipated to water supply and wastewater infrastructure. During construction phase, there will be temporary loss of water pressure/supply to the local areas, and this impact would be local, not significant and temporary in duration. Mitigation is formed of adherence to relevant codes of practice, design guidance and consultation with local and statutory authorities. A Site Specific Construction and Demolition Plan and Operational Waste Management Plan will mitigate impacts in terms of waste, with mitigation in place, impact will be neutral and not-significant.

Landscape and visual impacts – amendments are necessary to improve the visual and landscape impact of the development, including the reduction by a storey over

all blocks, and reduced footprint to block C, alongside associated increased tree planting to the northeast and southern boundary of the site. With the incorporation of these amendments, the proposed development would have neutral and positive effects upon landscape character and visual environment.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, or historic environment, would be acceptable in terms of urban design, height, scale, mass, 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. In coming to this conclusion, specific regard was had to the Chief Executive Report from the Planning Authority and particularly the recommended reasons for refusal, which was addressed in detail in the Inspector's Report. It was considered that while the height, scale and mass of the development would have an unacceptable impact at 5 to 6 storeys in height, this could be successfully mitigated with a reduction in height, scale and mass to between 4 to 5 storeys and decreased footprint to Block C, alongside increased tree planting. Cognisant of the Planning Authority's recommended reasons for refusal, the Board concluded that the development would not result in undue overlooking of adjacent sites or within the proposed development itself and would represent an acceptable standard of quality for the proposed accommodation, but that the reduced height, scale and mass of the development would consequently reduce the visual impact on this historically sensitive site. The Board therefore concluded that the height, scale and mass of the proposed development would be appropriate following amendments secured by conditions and that the proposed development was acceptable in all other respects.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the

statutory plans for the area, a grant of permission could materially contravene the potential unit number identified under the Fingal Development Plan 2017-2023 for Howth. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the City Development Plan would be justified for the following reasons and consideration.

In relation to section 37(2)(b) (i) of the Planning and Development Act 2000 (as amended):

The strategic nature of the site for the delivery of housing, as one of only a few remaining vacant sites identified for residential development, and with excellent accessibility, in Howth. In this sense, the site is strategically important for the delivery of housing in Howth, in the context of national planning policy documents and guidelines which promote compact growth.

In relation to section 37(2)(b) (iii) of the Planning and Development Act 2000 (as amended):

Permission for the development should be granted having regard to national planning policy guidelines that promote increased housing delivery on appropriate sites, including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework. The site characteristics align with national principles underpinning sustainable compact growth in urban areas, being situated a short walking distance to Howth Dart Station, the town centre and harbour employment area. In addition, the proposed development (with amendments that I recommend) is also in accordance with SPPR1 and development management criteria (under section 3.2) in the Building Height Guidelines, as well as SPPR's and associated guidance in the Apartment Guidelines.

In relation to section 37(2)(b) (iv) of the Planning and Development Act 2000 (as amended):

The pattern of development in the area, specifically being the permission for the Claremont SHD development, which exceeds the potential unit number for Howth set out in the Development Plan, and therefore indicates that a material contravention would therefore similarly be justified for the proposed development.

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, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

- (a) Removal of the upper storey to all blocks, resulting in a maximum height of 4-5 storeys and subsequent replacement of roof terrace amenity areas;
- (b) Removal of units 01 to 06 on each floor in Block C (24 units in total over 4 storeys), and related decrease in footprint, facilitating an increased set back of at least 10m from Howth Road,
- (c) Associated reduction in the number of car parking spaces to preserve a ratio of 0.81 spaces per a unit (while retaining a minimum 6no. accessible spaces, 13no. electric vehicle spaces and 4no. Go-Car spaces);
- (d) Revised landscape plan as a result of the above alterations to include details of boundary treatments, a piece of public art or sculpture or architectural feature and details of free public access to the HA lands to the rear of the site in perpetuity;

- (e) Additional tree planting and densification of canopy coverage of trees, on the north east corner of the site and southern boundary;
- (f) Level access by either ramp or lift (or both) to be provided to cyclists to basement cycle store level. Basement car park to be designed in accordance with design recommendations for underground car parks published by IStructE;
- (g) Revised Service Vehicles and Emergency Services access details and Swept Path Analysis to meet the design specifications of the Planning Authority, with no overlap into lands zoned HA;
- (h) Revised details demonstrating adjustment to the footprint of the ESB substation to allow retention of tree labelled no.68 in the submitted tree survey as part of the approved application. Where the retention of this tree is demonstrated to be impossible, mitigation in the form of tree replacement to a suitable maturity should be detailed.

As a result of these amendments, the proposed development is formed of the following mix of units: 17no. (15%) 1 bed, 80no. (70.8%) 2 bed and 16no. (14.2%) 3 bed (total units 113). Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 17 of the EIAR 'Summary of Mitigation 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.

4. The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

5. 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.

6. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be submitted with the application, unless otherwise agreed in writing with the planning authority/An Bord Pleanála 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.

7. 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.

8. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage 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 has 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 future proof the development such as would facilitate the use of Electric Vehicles.

9. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

(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.

10. The construction of the development shall be managed in accordance with a Construction 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) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of access points to the site for any construction related activity;
- c) Location of areas for construction site offices and staff facilities;
- d) Details of site security fencing and hoardings;

- e) Details of on-site car parking facilities for site workers during the course of construction;
- f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- g) Measures to obviate queuing of construction traffic on the adjoining road network;
- h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

11. 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.

12. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

13. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances and no lighting of fires, over the root spread of any tree to be retained.

(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of retained trees, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

(d) No trench, embankment or pipe run shall be located within three metres of any trees / shrubs / hedging which are to be retained on the site.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

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 not later than 6 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.

15. Public lighting shall be provided in accordance with a scheme, which shall include details of any light spill into open spaces on the site, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be designed in accordance with guidance contained in the Institution of Lighting Professionals (ILP) (2018) Guidance Note 08/18 Bats and artificial lighting in the UK. The approved lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

16. The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development. All works are to be carried out in accordance with Irish Water Standards codes and practices, including in relation to separation distances and restrictions on the building up over assets.

Reason: In the interest of public health.

17. 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.

18. The public open space areas shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the revised landscape scheme to be agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer.

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

19. Proposals for an estate name and numbering scheme with associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

20. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works. The development shall not be occupied until all services are operational.

Reason: In the interests of visual and residential amenity.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

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. The developer shall pay to the planning authority a financial contribution in respect of public open space 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.

Note: In amending the Inspector's recommended Condition Number 2, by omitting a further 16 units over 4 floors to the front of Block C, increasing the set back distance to the Howth road by a minimum of 30 metres, the Board had regard to the location of the proposed development on a site enclosed by the historic estate/demesne wall, the setting and distinctive character of the main entrance to the Howth Castle site which is a protected structure of national importance, and considered it necessary to further minimise the visibility of the development in the views from the ACA and in the sensitive historic setting of the entrance to Howth Castle.

Board Member


Michelle Fagan

Date: 21/09/2021

DECISION QUASHED