

An
Bord
Pleanála

Board Direction
BD-013759-23
ABP-312048-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/09/2023.

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

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 the cultural heritage, 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. The Board considered that the proposed development is broadly compliant with the current Fingal County Development Plan, 2023-2029 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board had regard to the scale of development, the extensive planning history on lands in the vicinity, the location of the open space, its incremental delivery, and the applicants support for the condition regarding open space attached by the Local Authority. In this instance the Board disagreed with the Inspector and were satisfied that the condition attached by the Local Authority provided clarity on the area of open

space to be transferred to the Council and should be a requirement of the permission.

The Board noted that house type N1, N2 and N3 are designed so as to provide a frontage onto both the street and the open space, the Board considered it appropriate to de exempt extensions to these properties to ensure this design feature is retained.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, the information submitted as part of the applicant's Appropriate Assessment Screening documentation, and the Inspector's Report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other developments, plans and projects in the vicinity, the proposed development would not be likely to have significant effects 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, in accordance with section 172 of the Planning and Development Act, 2000, as amended, 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 applicant, planning authority, 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 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.

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.

Reasoned Conclusions on the Significant Effects:

The Board considered and agreed with the Inspector's reasoned conclusions.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 14th day of July, 2021 and the 6th day of October, 2021, 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.

For the avoidance of doubt:

- (a) the permitted boundary treatment shall be in accordance with the Boundary Treatment Plan drawing number P3-409 as received by the planning authority on the 14th day of July, 2021.
- (b) the permitted house types shall be in accordance with the revised details received by the planning authority on the 14th day of July, 2021.

Reason: In the interest of clarity.

2. The permission shall be for a period of ten years from the date of this Order.

Reason: In the interest of clarity.

3. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Assessment Report and the other particulars submitted with the application, as amended by the further plans and particulars submitted on the 14th day of July, 2021 and the 6th day of October, 2021, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

4. All of the mitigation measures contained in the 'Summer Bat Assessment of Phase 3 Development for Glenveagh Properties at Clonard Cross, Balbriggan, Fingal' and Chapter 4.0: 'Biodiversity' of the Environmental Impact Assessment Report submitted with the application, shall be incorporated into the development and carried out on the site to the written satisfaction of the planning authority, unless otherwise agreed in writing with the planning authority.

Reason: To ensure the protection of the natural heritage on the site.

5. The design of House Type N1, N2, or N3, (the nine dwellings that are designed to have a frontage onto road 15, road 16 and the open space) and/or the boundary treatment of these properties shall not be amended or extended (including that which is exempted development under the Planning and Development Regulations 2001, as amended, unless authorised by a further grant of planning permission.

Reason: In the interest of providing an active frontage and a degree of overlooking to both the open space and the street, which is achieved by the design of both elevations.

6. 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.

7. Drainage arrangements, including the attenuation and disposal of surface water, shall accord with the following requirements:
 - (a) The surface water layout and drainage arrangements shall be as per the report and associated drawings received by the planning authority on the 14th day of July, 2021.
 - (b) Provision for the runoff from adjoining future development to the north (50l/s) shall be enacted having regard to phasing and construction progress with an incremental increase proportional to the size of the catchment area added to the network.
 - (c) Prohibit any discharge of surface water/rainwater to the foul water system.
 - (d) The surface water drainage system is to accord with the 'Greater Dublin Regional Code of Practice for Drainage Works, Version 6.0' FCC, 2006.
 - (e) Any proposed amendment required to accord with the landscape condition below (Condition Number 15) or deviation from the above shall be submitted to the local authority for written agreement prior to the commencement of development.

Reason: In the interest of public health.

8. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

9. 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.

10. 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. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

11. No works are to be carried out on the construction of any dwelling unit within Phases 3B-3D of the overall Phase 3 Ladywell Masterplan lands until such time as the upgrading and traffic signalisation of the junction of Boulevard Road with Clonard Road has been completed to the written satisfaction of the planning authority.

Reason: In the interest of traffic safety.

12. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and access roads, shall be in accordance with the detailed construction standards of the planning authority for such works and the design standards outlined in the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. Details 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 amenity, traffic and pedestrian safety and sustainable transport.

13. A minimum of 20% 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, 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 to, 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.

14. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in

accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/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 placenames for new residential areas.

15. (a) The landscaping scheme and open space layout of the permitted development shall be in accordance with the Landscape Proposal Plan and the Landscape Masterplan drawing numbers GLE-020-04/01 Revs N and E received by the planning authority on the 14th day of July, 2021, save as may be required by the other conditions attached hereto.
- (b) All attenuation construction work shall be outside the riparian corridor setback at the southern site boundary.
- (c) The Tree Survey Recommendations, Tree Protection Plan measures and tree works, details of which were received by the planning authority as part of the additional information response on the 14th day of July, 2021 shall be implemented prior to and during construction under the supervision of the appointed arboricultural consultant who shall be engaged for the duration of the project. The appointed arboricultural consultant shall liaise regularly with the planning authority.
- (d) No site cut or fill shall take place within the roof protection areas of retained trees and hedgerows.
- (e) Prior to the commencement of development, a tree bond of €20,000 (twenty thousand euro) shall be lodged with the planning authority in order to ensure that the trees are protected and maintained in good condition throughout the course of the development. This bond shall be held by the

planning authority for a period of three years post construction which may be extended in the event of possible construction related defects.

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

16. (a) On site Class 2 open space in the amount of 12,685 square metres is provided. The developer is required to transfer to the planning authority a balance of 8,147.5 square metres of Class 1 public open space in the site lands designed for Class 1 open space.
- (b) The Class 1 open space provision including play spaces for Phase 3 shall be delivered in tandem with or in advance of the substantial completion of each sub phase, that is, Phase 3A, 3B, 3C, and 3D. Prior to the commencement of construction works, the developer shall submit to the planning authority for written agreement a scaled drawing showing the location and accessibility of the 8,147.5 square metres of Class 1 open space within the developer's blue line. The timeline for the delivery of this Class 1 open space shall be agreed in writing with the planning authority prior to commencement of construction works.

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

17. (a) The design and layout of the playground facilities shall be in accordance with the Class 1 Open Space – Details of Proposed Play Equipment Plan drawing number GLE-20-04-/05 Rev D received by the planning authority as additional information on the 14th day of July, 2021.
- (b) The Class 1 open space play area shall be surfaced with a bonded mulch (and not loose wood chip).

- (c) All play areas shall be RoSPA or equivalent certified. Prior to taking-in-charge by the planning authority, the developer shall submit the certificate to the planning authority.

Reason: In the interest of residential and visual amenity.

- 18. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

- 19. 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, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

- 20. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols.

The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

21. 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 with measures to reflect mitigation described in the submitted Environmental Impact Assessment Report for the application, in addition to the following:
 - (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 and for the cleaning of the same,

- (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, and
- (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 interests of amenities, public health and safety.

22. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1300 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.

23. The developer shall facilitate the preservation, recording and protection of archaeological remains or features that may exist within the site. In this regard, the developer shall:
- (a) engage the services of a suitability qualified archaeologist to co-ordinate the mitigation proposals contained in Chapter 13.0 of the Environmental Impact Assessment Report for archaeological excavations (preservation by record), further archaeological testing and archaeological monitoring of groundworks. The archaeologist will be prepared to excavate sites and features already identified and other features that may be identified in further archaeological testing and to monitor under licence all groundworks associated with the development.
 - (b) Should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.
 - (c) The planning authority and the Department of Housing, Local Government and Heritage shall be furnished with a report describing the results of the monitoring.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

24. All of the permitted house or duplex units in the development, when completed, shall be first occupied as a place of residence by individual purchasers who are not a corporate entity and/or by persons who are eligible for the occupation of social or affordable housing, including cost rental housing. Prior to commencement of development, the applicant or any person with an interest in

the land shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act 2000, as amended, to this effect. Such an agreement must specify the number and location of each house or duplex unit.

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.

25. 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 96(4) and 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 for the area.

26. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer

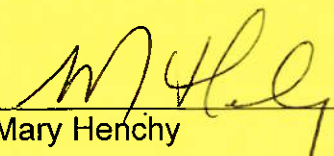
or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

27. 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


Mary Henchy

Date: 18/09/2023

