

An
Bord
Pleanála

Board Direction
BD-011870-23
ABP-313210-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/03/2023.

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

In coming to its decision, the Board had regard to the following:

- (i) the site's location on lands with a zoning objective for residential (including ancillary commercial development) and open space, and the policy and objective provisions in the Fingal County Development Plan 2017 - 2023
- (ii) to the Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (v) the provisions of Housing for All, issued by the Department of Housing, Local Government and Heritage in September 2021,
- (iii) the Guidelines for Planning Authorities on Sustainable Residential Development 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,
- (iv) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;

- (v) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of the Housing and Planning and Local Government, December 2020,
- (vi) 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;
- (vii) The nature, scale and design of the proposed development and the accessibility of the site to surrounding facilities and feasibility of connection to water services infrastructure;
- (viii) to the pattern of existing and permitted development in the area, and
- (ix) The planning history of the area
- (x) Chief Executive's Report submitted by Fingal County Council,
- (xi) to the submissions and observations received, and
- (xii) the Inspectors report.

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, submissions on file, 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 development, plans and projects in the vicinity, the proposed development would not be likely to have an 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, in compliance 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 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 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 on lands zoned for housing, increased economic activity and with the provision of new public open space. Capacity is identified in relation to social

infrastructure to support the future population of the development. Mitigation has been incorporated through the application of measures in a Construction Management Plan to reduce impact upon human health. The proposal would not be likely to have significant effects in relation to population and human health.

Land, soils, geology, water, air quality and climate - with the implementation of construction management measures, as well as surface water management, attenuation, drainage of foul waters and through the design of buildings the proposal would not be likely to have significant effects in relation to land, soils, geology, water, air quality and climate.

Noise and vibration – during the construction phase, negative impacts are anticipated. These impacts will be on a short-term, temporary basis and will be mitigated through measures in the Construction Management Plan. During the operational phase, sound insulation/acoustic measures will be incorporated into the buildings to reduce inward noise impact from the rail line. With mitigation in place, impact during operational phase the proposed development would not be likely to have significant effects in relation to noise and vibration.

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 to limit and control impact during the construction phase, including measures to protect trees and reduce risk of discharge from the site, and ensure sensitivity to birds and 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 landscape management will reduce impact. The proposal would not be likely to have significant effects in relation to biodiversity.

Archaeology and cultural heritage - no significant permanent adverse impacts upon archaeological cultural heritage are anticipated, with the application of mitigation measures including archaeological monitoring. The proposal would not be likely to have significant effects in relation to archaeology and cultural heritage.

Material Assets – transport – in relation to transport, during the construction phase there will increased levels of construction traffic, such will be temporary in nature and

the construction of the development is phased. During the operational phase there will be an increase in traffic associated with the proposed development however such impact would not be significant with the proposal providing a link to the R127 improving traffic distribution, improved pedestrian and cycling linkages, a development that is accessible to existing public transport infrastructure and a development that will operate within the capacity of the local road network. With the implementation of mitigation measures including the management of construction traffic, the proposal would not be likely to have significant effects in relation to transport.

Material Assets – Utilities and waste – in relation to utilities, during the construction phase, service disruption maybe unavoidable, but will be temporary, and impact is concluded to be imperceptible. No significant adverse impacts are anticipated in relation to utilities during the operation of the development, with positive impacts anticipated as a result of the upgrading of utilities. In relation to waste, implementation of mitigation measures including waste management during construction and operation, ensure imperceptible and neutral impact would result from the proposed development, over the short-term period during construction and a long-term period during operational phase. The proposal would not be likely to have significant effects in relation to utilities and waste.

Landscape and visual impacts – During construction, negative visual impact will be short-term and mitigated through construction management measures. During the operational phase the development will alter the character of the area however it provides for the continuation of existing residential development whose visual impact will be mitigated by the proposed landscaping proposals. The proposal would not be likely to have significant effects in relation to visual impact.

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 below, the effects on the environment of the proposed development, by itself and in combination 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 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 2017 - 2023 and would therefore be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

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

Reason: In the interests of clarity.

3. The developer shall ensure that a buffer zone of 35 metres is provided from the noise/odour producing part of the pumping station. Revised drawings outlining the provision of this buffer zone shall be submitted to the Planning Authority prior to the commencement of development on the site.

Reason: In the interest of public health.

4. 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 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.

5. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with the application as summarised in Chapter 16 of the EIAR entitled 'Summary of EIAR 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.

6. The development shall be carried out on a phased basis, in accordance with the phasing scheme submitted with the planning application, unless otherwise agreed in writing with the planning authority/An Bord Pleanála prior to

commencement of any development.

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

7. Details of the materials, colours and textures of all the external finishes to the proposed building shall be as submitted with the application, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

8. 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.

9. Proposals for a development name 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.

10. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces,

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 provided prior to the making available for occupation of any apartment unit.

Reason: In the interests of amenity and public safety.

11. 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.

- 12 The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, access road and the underground car park (including access ramp with segregated provision for cyclists) shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. Details shall be submitted to, and agreed in writing with, the planning authority prior to the 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 amenity and of traffic and pedestrian safety.

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

(b) The car parking spaces shall be reserved solely for the use by a car sharing club. The developer shall notify the Planning Authority of any change in the status of this car sharing club.

(c) 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.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development.

14. A minimum of 10% of all 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. The car parking spaces for sole use of the car sharing club shall also be provided with functioning EV charging stations/ points.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

15. A total of 1,092 no. bicycle parking spaces shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with, 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. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

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

17. The developer shall enter into water and waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

18. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

19. (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.

20. (a) 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.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

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 EIAR 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.
- 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.

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

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

23. 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) engage the services of a suitably qualified archaeologist to co-ordinate the mitigation proposals contained in the Archaeological Assessment report for archaeological excavation (preservation by record) of Archaeological Areas 1-4 in

advance of construction works and Archaeological Monitoring of ground disturbance at construction stages across the development site,

(b) should previously unidentified 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, site, features or other objects of archaeological interest.

24. Prior to the commencement of development the applicant/developer shall liaise with Iarnród Éireann regarding all works within the vicinity of the existing rail line, the proposed overbridge works and realignment of the R127.

(a) The applicant shall have regard to the Railway Safety Act 2005.

(b) The applicant shall engage with Iarnród Éireann to establish the accurate alignment of boundary between the application site and lands under Iarnród Éireann's control.

(c) The applicant shall provide detailed information on ground levels of the development adjacent to the track boundary.

(d) The applicant shall liaise with Iarnród Éireann's appointed third party co-ordinator throughout all stages of the development.

(e) (i) Provision of a H4a containment barrier being in place for 45m on the approaches and departures to the parapet until such time as the adjacent building is constructed.

(ii) Should the proposed adjacent building (northwest corner of the bridge) be demolished at some stage in the future, the containment barriers will be brought up to standard appropriate at the time.

Approval is conditional on the applicant providing a risk assessment to Iarnród Éireann's satisfaction, regarding what would be the implication of a vehicle hitting the buildings.

(f) To comply with the Railway Safety Act (2005) an application for Authorisation to Place in Service (APIS) shall be made to the Commission for railway regulation for each stage of the project in accordance with the Guidelines for approval of new infrastructure works, in particular RSC-G-009 'Guidelines for the Process of Authorisation for Placing in Service railway Sub Systems'.

(g) The integrity and functionality of the existing historic drainage channel running parallel to the railway at the crest of the cutting must not be affected by any temporary or permanent works of landscaping.

(h) The development shall not undermine the integrity of the embankment and the embankment support structures adjacent the track. Any works to or adjacent to embankments will require written consent from CIE/Irish Rail.

(i) In keeping with residential development of this scale and density a 2.4m minimum high appropriately designed, solid block/concrete boundary wall treatment should be erected by the applicant on the applicants' side of the boundary of the railway. The maintenance of this boundary treatment rests with the applicant and successor-in-title. The exact location and details of boundary treatment are to be identified on site in co-operation with Iarnród Éireann.

(j) Landscaping proposed at the track boundary should avoid deciduous trees to reduce the risk of low rail adhesion during leaf fall season.

(k) Provision shall be made for maintaining the security of the railway boundary during the construction phase and agreed permanent boundary treatment shall be completed during the early stages of the development/

(l) Access for Iarnród Éireann staff to culverts/bridges under the railway should not be hindered.

(m) Railway mounds and drainage ditches are to be preserved except where written consent from Iarnród Éireann is received.

(n) No additional liquid, either surface water or effluent shall be discharged to or allow to seep onto the railway property or into railway drains/ditches.

(o) Any excavations which infringe upon the Track Support Zone will require permission and approval from the Senior Track & Structures Engineer.

(p) No building shall be constructed within 4m of the boundary treatment on the applicants' site.

(q) Should development require use of a crane that could swing over or under the railway property agreement must be reached with Iarnrod Eireann/CIE.

(r) Any proposed services that are required to cross along, over or under the railway property must be subject to a wayleave agreement with Iarnrod Eireann/CIE.

(s) No overhang or any part of the development over the railway line is to be allowed.

(t) Lights for the proposed development, either during construction phase or when development is completed, shall not cause glint or glare or in any way impact the vision of train drivers or personnel operating on track machines. A glint and glare survey should be carried out to confirm this is the case.

Reason: In the interest of protecting the continued safe operation and structural integrity of the existing railway line along the boundary of the site and orderly development.

24. Prior to the commencement of development the applicant/developer shall liaise with the Planning Authority regarding realignment works to the R127. The design and layout of the realignment shall have regard to the future integration of the Fingal Coastal Way/pedestrian infrastructure.

Reason: In the interests of future pedestrian safety and connectivity.

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 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.

26. Bat roosts shall be incorporated into the site and the recommendation of the EIAR shall be carried out on the site to the written satisfaction of the planning authority and in accordance with the details submitted to An Bord Pleanála with this application unless otherwise agreed in writing with the planning authority

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

27. 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.

28. The developer shall pay to the Planning Authority a financial contribution as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000 in lieu of a shortfall in public open space based on County Development

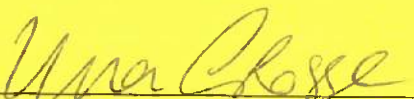
Plan standards and in respect of upgrade of Bremore Park. The amount of the contribution shall be agreed between the planning authority and developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the the Wholesale Price Index-Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It considered reasonable that the developer should contribute towards specific exceptional costs which are incurred by the planning authority which are no covered in the Development Contribution Scheme and which will benefit the proposed development. .

29. 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



Una Crosse

Date: 13/03/2023

