



An
Bord
Pleanála

Board Direction
BD-011929-23
ABP-313317-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/03/2023.

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:

- (a) The location of the site in the established urban area of County Fingal in an area subject to the ME 'Metro Economic' zoning objective where high density mixed-use and residential development is envisaged under the County Development Plan;
- (b) The policies and objectives of the Fingal County Development Plan 2017-2023;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) The Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage September 2021;
- (e) Project Ireland 2040 National Planning Framework;
- (f) 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 2013 (and Interim Advice note Covid 19 May 2020);

- (g) 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;
- (h) The Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (i) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in 2022;
- (j) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (k) The planning history of the site and within the area;
- (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 pattern of existing and permitted development in the area;
- (n) The Chief Executive's Report from the planning authority;
- (o) The submissions and observations received, and
- (p) The report and recommendation 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 and would 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 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 which comprises a built-up urban area, 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 a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed, 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: the location, nature, scale, and extent of the proposed development.

- (a) the location, nature, scale, and extent of the proposed development.
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the planning application.
- (c) the submissions from the Chief Executive and the prescribed bodies in the course of the application, and the submissions received from Observers.
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately identifies, and describes the direct, indirect, secondary, 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 planning application.

Reasoned Conclusions on the Significant Effects

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board considered 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 would be mitigated where required, as follows:

- Significant positive impacts on population and human health due to the increase in housing stock within the Santry area. Potential impacts on human health during construction will be mitigated by the measures set out in the proposed Construction and Environmental Management Plan CEMP and the Outline Construction and Demolition Waste Management Plan.
- Biodiversity impacts, which will be mitigated by construction management measures including dust management, noise management and waste management; measures to protect surface water quality during construction and operation including SuDS measures; landscaping proposals which will provide new habitats and ecological enhancement measures including bird boxes and bat boxes.
- Land and Soils impacts, which will be mitigated by the measures set out in the Outline Construction and Environmental Management Plan and the proposed Construction and Demolition Waste Management Plan including control of soil excavation/infill and export from site; fuel and chemical handling, transport and storage and control of water during construction, also by the proposed surface water management measures that are part of the completed development.

- Water impacts, which will be mitigated by construction management measures as per the Outline Construction Environmental Management Plan; SuDS measures, surface water management and monitoring.
- The proposed development is not likely to have significant adverse effects on human health, air and climate, material assets, cultural heritage or the landscape.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures 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 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, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of pedestrian and traffic safety and would provide an acceptable form of residential amenity for future occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Note:

The Board did not agree with the Inspector that the proposed Strategic Housing Development could materially contravene the Fingal County Development Plan 2017-2023 in relation to development management standard, Objective DMS75, as it relates to the provision of play facilities on the site. In coming to this conclusion, regard was had, in particular, to the Chief Executives Report which considered the shortfall of play facilities to be acceptable on the payment of a financial contribution in line with the methodology applied to the shortfall in open space and as provided for in 'Space for Play – A Play Policy for Fingal', October 2021. Furthermore, the Board considered that the play facilities proposed are appropriately scaled for the

nature of the development and site context in compliance with Objective PM63 of the Fingal County Development Plan 2017-2023.

Conditions

1. The proposed 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 proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report (EIAR) and the Outline Construction Environmental Management Plan shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interests of clarity and of protecting the environment and in the interest of public health.

3. The proposed development shall be amended as follows:
 - Opaque windows shall be provided to at the ground to 6th floors at the western sides of Blocks 1 and 3.
 - The layout of the eastern access road to the development shall be revised to incorporate existing pedestrian facilities serving the Sports Surgery Clinic such that it reflects the arrangements permitted under Ref. F18A/0675.

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 residential and visual amenities.

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

Reason: In the interest of visual amenity.

4. The developer shall provide a piece of public art or sculpture or architectural feature, to be designed in consultation with the planning authority. The piece of art shall have a relationship with the area. The location of the piece of art shall be agreed with the planning authority prior to the commencement of works on site.

Reason: To comply with Objective DMS05 of the Fingal County Development Plan 2017-2023.

5. The boundary planting and areas of communal open space shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

6. The management and maintenance of the proposed development following its completion (save for areas that are to be taken in charge) shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

7. 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 six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

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. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, 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 house.

Reason: In the interests of amenity and public safety.

10. The internal noise levels, when measured from bedroom windows of the proposed development, shall not exceed:

(a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and

(b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed dwellings are made available for occupation.

Reason: In the interest of residential amenity.

11. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, kerbs and the lower ground level car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. The detailed layout of the basement car park shall be as agreed with the planning authority. 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.

12. The Mobility Management Plan submitted with the application shall be implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

13. 728 number 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.

14. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

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

15. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The 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.

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

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. 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.

17. The developer is required to sign a connection agreement with Irish Water prior to any works commencing and connecting to its network. All development is to be carried out in compliance with Irish Water Standards codes and practices.

Reason: In the interest of public health.

18. Construction and demolition waste shall be managed in accordance with a final 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.

19. The construction of the development shall be managed in accordance with a final Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Works to remove trees and structures from the site shall take place outside of bird nesting season;
- (b) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (c) Location of areas for construction site offices and staff facilities;

- (d) Details of site security fencing and hoardings. Hoardings shall include a one square metre area on each road frontage detailing site management contact details;
- (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.
- (o) A community liaison officer shall be appointed for the duration of the construction works.

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

20. The developer shall implement the following tree protection measures:

(a) Prior to commencement of development, all trees 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, 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 which are to be retained adjacent to the site unless otherwise agreed with the planning authority.

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

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

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

22. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. 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.

23. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority the details any crane operations and to ensure they do not impact on flight procedures and air safety. The developer shall also contact the Irish Aviation Authority and DAA of intention to commence crane operations with a minimum of 30 days notification of their erection.

Reason: In the interest of residential amenity and aircraft safety.

24. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, drawings showing all development works to be taken in charge designed to meet the standards of the Planning Authority.

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

25. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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. 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 protection of the existing sycamore trees at the site that are subject to a Tree Preservation Order, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory retention and protection of the trees. 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 retention of trees at the site that are subject to a Tree Preservation Order.

28. The developer shall pay to the Planning Authority a financial contribution in lieu of open space provision and play facilities in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and

Development Act 2000, as amended (as provided for in said Scheme, the Fingal Development Plan 2017-2023 and 'Space for Play - A Play Policy for Fingal').

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: To provide a financial contribution in lieu of the shortfall in the provision of open space and play facilities required to serve the development as provided for in the Development Contribution Scheme made under section 48 of the Act, the Fingal Development Plan 2017-2023 and the Space for Play - A Play Policy for Fingal.

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: 23/03/2023

Una Crosse

