

An
Bord
Pleanála

Board Direction
BD-017280-24
ABP-313321-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 14/08/2024.

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 making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions. In coming to its decision, the Board had regard to the following:

- a. The site's location on lands with a zoning objective for residential development;
- b. The policies and objectives in the Dun Loaghair Rathdown County Development Plan 2022-2028
- c. The nature, scale and design of the proposed development;
- d. The pattern of existing development in the area;
- e. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- f. Housing for All – A New Housing Plan for Ireland, 2021

- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- h. The Regional Spatial and Economic Strategy 2019-2031, for the Eastern and Midland Region;
- i. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024);
- j. 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(as updated) (Including Interim Advice note Covid-19 May 2020);
- k. Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020;
- l. The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- m. The report of the Chief Executive;
- n. The submissions and observations received; and
- o. the report of the Inspector.

Appropriate Assessment:

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 a screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant identifies, and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment. Having regard to:

- The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(i) and 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003).
- The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the, Appropriate Assessment Screening Report, Outline Construction Environmental Management Plan, Operation Waste Management Plan, Site Specific Flood Risk Assessment, Ecological Impact Assessment, Bat Survey, Archaeological and Cultural Heritage Assessment, Landscaping Ecological Impact Assessment and Arboriculture Impact Assessment

In conclusion, having regard to the absence of any significant environmental sensitivity in the vicinity and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development and that the preparation and submission of an environmental impact assessment report would not therefore be required.

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, zoned and serviced 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 be consistent with the relevant provisions of the statutory development plan and with the relevant provisions of Ministerial Guidance. The proposed development 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 on the 13th of April 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

3. The proposed development shall be amended as follows:

- The rear gardens of house numbers 2,3, 9-14 shall be shortened by 5 metres, and house number 1 shall be omitted. A corridor of 5 metres in width shall be

provided from the main area of public open space on site, along the site's eastern boundary, as far as the internal access road north of house number 2.

- A secure bulky storage area for the apartment units shall be provided in the undercroft car park at a loss of no more than three no. car parking spaces.
- The rear access paths proposed to the rear of the house shall be controlled by means of a gate where it adjoins the public footpath with access limited to those homes served by the access path/alley only.

The revised plans and particulars showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest visual amenity of proper planning and sustainable development and adequate provision of residential amenities and to provide an ecological corridor which can facilitate the movement of wildlife.

4. The developer shall adhere to the wayleave requirements of the ESB and Section 12.9.9 *Development and Overhead Power Lines* of the Development Plan as regards required separation distances and work practices relating to works in the vicinity of the ESB network.

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

5. Prior to commencement, the Applicant shall submit revised drawings and details which demonstrate the required number of the preferred "Sheffield" cycle stands to serve the proposed development in accordance with the requirements outlined within be in accordance with Section 3 & Section 4 of DLRCC's *Standards for Cycle Parking and associated Cycling Facilities for New Developments (January 2018)* or any update thereto. In determining recommended space for bicycle parking a footprint of 2m x 1m is required for 2 standard bicycles parked at 1 Sheffield stand in accordance with the DLRCC standard.

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

6. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors and boundary walls 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 interest of visual amenity and to ensure an appropriate high standard of development.

7. Details of signage, waste management and hours of operation of the Creche shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and orderly development.

8. All links/connections to adjoining lands (within and outside the applicant's control) shall be provided up to the site boundary to facilitate future connections subject to the appropriate consents.

Reason: In the interest of permeability and safety.

9. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. 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.

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

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

11. 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) A Pre-Construction Invasive Species Management Plan and an Invasive Species Management Plan if required;

- 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;
- 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) Details of lighting during construction works;
- i) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- j) 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 works;
- k) Provision of parking for existing properties at during the construction period;
- l) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- m) 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;
- n) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- o) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- p) A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

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

12. 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.

Reason: In the interest of sustainable waste management.

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

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

Reason: In the interest of public health.

15. a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority.

b) The design shall be revised with discharge rate for the site limited to Q_{bar} (calculated using site specific data, C_v values of 1.0 and Climate Change factor of 20%) or 2l/s/ha. whichever is greater, subject to the orifice size of the flow control device not being less than 50mm in diameter. The submitted shall include detailed calculations, including modelling results, of the proposed system during all required storm events. This may lead to an increase in attenuation volume required.

c) Final SUDs details shall be submitted to include full dimensioned construction details for the proposed Green Roofs in accordance with the SUDS Manual (C753) and BS EN 12056-3:2000).

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

16. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the landscape scheme submitted to planning authority with the application, unless

otherwise 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 until taken in charge by the local authority or management company.

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

17. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, 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 in the interest of residential amenity.

18. 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: To ensure the satisfactory of the public open space areas, and their continued use for this purpose.

19.a) All trees shall be inspected by a suitable qualified expert for bats prior to felling. In the event a roost is found the developer shall require a derogation license from the National Parks and Wildlife Service.

b) Bat and bird boxes shall be installed in the proposed development, prior to the occupation of the residential units. The number, type and location of the boxes shall be submitted to and agreed in writing with the planning authority.

c) Any clearance of vegetation from the site should only be carried out in the period between the 1st of September and the end of February i.e., outside the main bird breeding season.

Reason: To avoid the destruction of the nests, nestlings and eggs of breeding birds and to avoid the proposed development causing detrimental effects on flora, fauna and natural habitats.

20. (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 as submitted with the application, 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/hedging which are to be retained on the site.

Reason: To protect trees/hedgerow and planting during the construction period in the interest of visual 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 the occupation of the residential units, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

23.

a) The developer shall engage the services of a suitably qualified archaeologist to co-ordinate and finalise the mitigation proposals contained in the Archaeological and Cultural Heritage Assessment for archaeological testing in advance of construction works and archaeological monitoring of ground disturbance at construction stage.

b) Should previously unidentified archaeological material be found during the course of testing and monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The Planning Authority (in consultation with the City Archaeologist and the National Monuments Service, Dept. of Housing, Local Government and Heritage, shall determine the further archaeological resolution of the site.

c) Following completion, a full report shall be furnished to the Planning Authority and Dept. of Housing, Local Government and Heritage

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.

24. Proposals for a naming 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 signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names 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 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 place names for new residential areas.

25. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located 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.

26. A minimum of 10% of all car parking spaces should be provided with electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit 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.

27.

- (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual

purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing 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.

28. 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 plan of the area.

29. 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

30. 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

Contribution Scheme made under section 48 of the Act be applied to the permission.

Note 1: the Board noted the commentary of the inspector at paragraph 10.6.5, wherein it is argued that the 5 metre wildlife corridor suggested by the planning authority would not be meaningful and that its insertion would significantly impact on the private amenity space afforded to the houses along the eastern boundary. The Board acknowledged the assessment set out by the inspector. However having examined the site layout in the relevant area, it was determined that the private amenity space allocation to house numbers 2,3 and 9-14 would remain of a sufficient scale and positioning to ensure a high quality of residential amenity to those homes. Furthermore, while the Board fully agreed with the inspector that there are wider area ecological connections (paragraph 10.6.6 refers), it was determined nevertheless that the insertion of a 5 metre wildlife corridor along part of the eastern boundary would deliver a meaningful ecological contribution overall, and that it would be appropriate to insert such a corridor into the final permitted scheme.

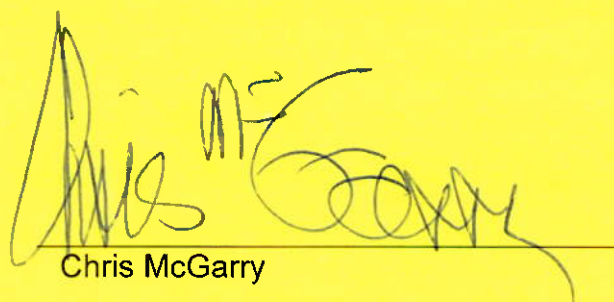
Note 2:

A full assessment of the development having regard to the relevant substantive issues set out in the 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities', issued by the Department of Housing, Local Government and Heritage, January 2024 (the 2024 Guidelines), has been completed by the inspector and the Board. The Board also noted that the assessment of the issues such as density by the planning authority in its report to the Board and by the Inspector, and the articulation of these issues within all submissions received from parties and observers, have already captured effectively the envelope of content as set out in the 2024 Guidelines. For example, analysis regarding residential density is clearly articulated and fully engaged with already in the full file documentation, including submissions, and the determination of the Board to grant permission for the development (inclusive of conditions) has had full regard to this documentation. The 2024 Guidelines do not change the premise of the submissions and assessment already contained on file and the permitted

development is in turn considered to fall within the range of applicable guidance as set out in the 2024 Guidelines.

Having completed an assessment of the full file documentation and having regard to, or applying as appropriate, the relevant provisions of the 2024 Guidelines, the Board has determined that the proposed development, subject to the conditions set out in this Order, is consistent with the proper planning and sustainable development of the area, full regard being had to all relevant Guidelines in place at the time of; the application lodgement; the decision of the planning authority; the assessment of the appeal by the Inspector and at the final determination by the Board, noting specifically the 2024 Guidelines, with which the Board has concluded the development successfully aligns.

Board Member



Chris McGarry

Date: 21/08/2024