



An
Bord
Pleanála

Board Direction
BD-011958-23
ABP-313362-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 27/03/2023.

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 site's location on lands with a zoning objective for residential development;
- b. The policies and objectives in the Fingal County Development Plan 2017-2023
- c. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- d. Housing for All – A New Housing Plan for Ireland, 2021
- e. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- f. Regional Spatial and Economic Strategy for the Eastern and Midland Region;
- 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 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;
- i. Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020;
- j. The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- k. The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- l. The Chief Executive's Report from Fingal County Council;
- m. 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;
- n. The nature, scale and design of the proposed development;
- o. The pattern of existing development in the area;
- p. The planning history within the vicinity of the site;
- q. The submissions and observations received and
- r. The Inspectors Report;

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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, 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, observer and the prescribed bodies in the course of the application; and
- (d) The Planning 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.

- Potential effects on population and human health that will be mitigated by appropriate construction and operational management plans, with no likely

significant residual negative effects. Direct positive effects with regard to population and material assets due to the increase in housing.

- Potential Biodiversity impacts mitigated by additional planting/landscaping and appropriate work practices with no significant residual effects predicted.
- Potential significant effects on land and soils during construction, which will be mitigated by the re-use of material on the site with the minimal removal of topsoil and subsoil; management and maintenance of plant and machinery and the implementation of measures to control emissions of sediment to water and dust to air during construction, with no significant likely residual effects
- Potential impacts on water during construction will be mitigated by the management of surface water run-off to prevent run off discharging directly into watercourses and by appropriate management measures to control the emissions of sediment, with no significant likely residual effects.
- Potential indirect effects on water during the occupation of the development will be mitigated by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, with no likely significant residual effects.
- Potential effects on air during construction which would be mitigated by a dust management plan including a monitoring programme, with no likely significant residual effects.
- Potential effects arising from noise and vibration during construction would be mitigated by appropriate management measures and by adherence to requirements of relevant code of practice. with no likely significant residual effects
- A positive effect on the landscape as the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.
- Potential impacts on the material assets of roads will be mitigated by the management of construction traffic by way of Construction and Environmental Management Plans with no likely significant residual effects. Positive effects on material assets by the upgrade of utilities and telecommunications. Potential impact on Waste Management assets would be mitigated by the preparation of

site-specific Construction and Demolition Waste Management Plan with no likely significant residual effects.

- Potential effects on Cultural Heritage would be mitigated by incorporating features in situ into the landscaping plan or recording of archaeological features by record. No significant adverse direct, indirect or cumulative effects are likely to arise.

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, the proposed development would not seriously injure the residential or visual amenities of the area or of property/land in the vicinity, would be consistent with national and local planning policy and would be acceptable in terms of design, scale, height, quantum of development, and 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 compliant with the provisions of the Fingal County Development Plan 2017-2023 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Note

In deciding not to include all the revisions suggested in the Inspectors recommended Condition 3, the Board had regard to the site context, the orientation and design of the units in question and the design measures outlined in the detailed drawings submitted.

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 proposed development shall be amended as follows: -

- a) Urban Block 03, which comprises Apartment Blocks B and C and Duplex Block V, shall be omitted and replaced with public open space unless and until such time as permission is granted for future development in this location.
- b) The junction of Road 10/Mooretown Distributor link extension shall be redesigned to cater for walking and cycling access only.
- c) The width of the entrance lobby in Apartment Block E as it adjoins ground floor Unit 3 shall be increased to a minimum width of 1.2m. This may require minor amendments to the design and layout of the Unit 3.

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 interest of residential and visual amenity and sustainable travel.

3. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 15 – Summary of 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.

4. Access to the development shall remain open 24 hours a day, with no gates or security barriers along the roads.

Reason: In the interest of residential amenity and social inclusion and to secure the integrity of the proposed development including open spaces.

5. Prior to commencement of development the applicant shall agree in writing the final details of all play equipment to be provided within the scheme.

Reason: In the interest of residential amenity

6. Prior to commencement of development details of cycle parking and associated storage for cycling equipment shall be agreed in writing with the planning authority.

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

7. All trees along Balheary Road shall be retained and maintained with the exception of the following: -

- a. Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.
- b. Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Retained trees shall be protected from damage during construction works. Within a period of 12 months following the completion of the stormwater storage tank, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

Reason: In the interest of visual amenity and biodiversity.

8. Prior to commencement of development the applicant shall submit a detailed phasing plan for the written agreement of the planning authority.

Reason: In the interest of residential amenity.

9. Prior to commencement of development the applicant shall submit for the written agreement of the planning authority details of areas to be taken in charge.

Reason: In the interest of residential amenity.

10. The proposed render finish from all elevations of the Apartment Blocks shall be omitted and replaced with a high-quality material. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, roofing materials, windows and doors 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 to ensure an appropriate high standard of development.

11. Details of signage 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.

12. The boundary planting and public open spaces 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.

13. Prior to commencement of development the applicant shall agree in writing with the Planning Authority the requirement for a piece of public art within the site. All works shall be at the applicant's expense.

Reason: In the interest of place making and visual amenity

14. The internal road network serving the proposed development, including the turning area and turning paths for trucks, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works, and shall comply, in all respects, with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).

Reason: In the interest of amenity and of traffic and pedestrian safety.

15. 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.

16. A minimum of 10% of all non-designated 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

17. 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.

18. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

- a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- b) All ground reduction should be subject to a programme of archaeological monitoring, under licence, by a suitably qualified archaeologist
- c) where archaeological material is shown to be present, avoidance, preservation in situ, or preservation by record (excavation) may be required. Works may be halted pending receipt of advice from the National Monuments Service, Department of Housing, Local Government and Heritage who will advise the applicant / developer with regard to these matters
- d) on completion of monitoring of ground reduction and any archaeological excavations arising, the archaeologist shall submit a written report to the planning authority and to the Department of Housing, Local Government and Heritage for consideration.

- e) In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

19. 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 agreed in writing with the planning authority.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

20. Proposals for a naming / 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 development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

21. 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.

22. The developer shall enter into water and wastewater connection agreement with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

23. Drainage arrangements, including the disposal and attenuation 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.

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

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

25. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

26. The construction of the development shall be managed in accordance with a 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

27. 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 housing unit, pursuant to Section 47 of the Planning and Development Act 2000, that restricts all 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.

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

31. 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 respect of upgrading the surrounding road network, in particular the upgrade of Glen Ellen / Balheary Road junction. The amount of the contribution 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 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 Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Board Member



Date: 28/03/2023

Una Crosse

