

An
Bord
Pleanála

Board Direction
BD-011959-23
ABP-314253-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 23/03/2023.

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 settlement area for Swords in an area zoned for residential (Objective RS – Residential, where residential (and childcare) is permitted in principle.);
- (b) the policies and objectives as set out in the Fingal Development Plan 2017-2023;
- (c) the provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) the provisions of Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage September 2021;
- (e) the provisions of 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;

- (f) the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018;
- (g) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2022;
- (h) the provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended;
- (i) 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;
- (j) the pattern of existing and permitted development in the area;
- (k) the planning history of the area;
- (l) the submissions and observations received;
- (m) the Chief Executive's Report submitted by Fingal County Council; and
- (n) The report of the Planning 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 otherwise 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, 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 Report 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 Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental 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: -

- (a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.
- (b) The location of the site on lands zoned under the Fingal County Development Plan 2017-2023 as residential.
- (c) The pattern of development and planning approvals in the surrounding area.
- (d) The availability of mains water and wastewater services to serve the proposed development.
- (e) 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.
- (f) The guidance as 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).
- (g) The criteria as set out in Schedule 7 of the Planning and Development Regulations 2001, as amended; and
- (h) 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 Ecological Impact Assessment and Construction Environmental Management Plan.

The Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable Development

Having regard to the zoning objective for the site as set out in the Fingal County Development Plan 2017-2023, the pattern of existing and approved development in the immediate vicinity of the site, the Appropriate Assessment Screening Report submitted with the application, the location in the existing settlement area for Swords and situated on a quality bus corridor with good public transport links, it is considered that with the incorporation of amendment and mitigation described in conditions, the proposed development would not seriously injure the residential or visual amenities of the area or of property and land in the vicinity. At a reduced maximum seven storeys in height, it was concluded that the proposed development would be consistent with national and local planning policy in terms of design, scale, height, mix and quantum of development, and in terms of pedestrian and traffic safety. It was also concluded that the development would not subject future occupiers to flood risk or increase the risk of flood elsewhere. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area. While the board had regard to the inspector's view that a grant of permission could materially contravene the Fingal Development Plan 2017-2023 with respect to specific objectives relating to Metro North, the Board formed the view that, while the proposed development is contrary to the Development Plan in relation to the Metro North Route, this did not constitute a material contravention of the plan in light of the status of the Metro North project. Had the board considered that a material contravention did arise, the Board would have considered a grant of permission in light of the strategic nature of the site with excellent accessibility for the delivery of housing in Swords and to national planning policy guidelines that promote increased housing delivery on appropriate sites, including Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage September 2021, Rebuilding Ireland Action Plan for Housing and Homelessness 2016, and Project Ireland 2040 National Planning Framework.

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 period during which the development hereby permitted may be carried out shall be five years from the date of this order.

Reason: Having regard to the nature of the development, the Board considers it appropriate to specify a period of validity of five years.

3. The proposed development shall be amended as follows:

- (a) The maximum height of the development shall be seven storeys, with the removal of floors seven and eight – i.e. the 8th and 9th storey of Block B.
- (b) The entrance to the bicycle store at ground floor of Block B3 (west) shall be relocated to a location that will increase passive surveillance.
- (c) A direct link from core Number 4 in Block B1 to the communal podium amenity space shall be provided.

Revised plans and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. As a result of these amendments, the total number of units in the scheme is reduced to 204.

Reason: In the interests of visual and residential amenity.

4. The mitigation measures contained in the Ecological Impact Assessment which was submitted with the application shall be implemented in full. Clearance of vegetation from the development site shall only be carried out between September

and February outside main bird breeding season. A survey of the ivy clad ash tree identified as having potential as a bat roost to be undertaken prior to the removal of vegetation from the site by a licensed specialist.

Reason: In the interests of clarity and proper planning and sustainable development of the area and to ensure ecological best practice.

5. A phasing scheme shall be submitted to and agreed in writing by the planning authority prior to commencement of the development.

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

6. 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) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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.

7. 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 development/installation of the lighting. The proposed lighting should be signed off by a bat specialist prior to submission to the planning authority. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

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

8. The historic milestone Record of Protected Structures Number 866 shall be adequately protected during the construction phase. Details of the measures to safeguard the milestone shall be submitted and agreed in writing with the Conservation Officer of Fingal County Council prior to any form of construction activity on site including ground preparation. Elevation drawings of the milestone and its relationship with the eastern site boundary shall also be submitted prior to the commencement of development.

Reason: In order to conserve the cultural heritage of the area.

9. The site shall be landscaped, and earthworks carried out in accordance with a detailed comprehensive scheme of landscaping including specification of tree planting, playspace and boundary treatments throughout the site, as well as maintenance details, to be submitted and agreed in writing with the planning authority prior to commencement of development. Landscaping shall be compatible with Sustainable Urban Drainage System proposals to the satisfaction of the planning authority. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. A piece of public art or sculpture or architectural feature should also be incorporated, the location of which shall be agreed with the planning authority in writing. The development shall not be gated.

Reason: In the interests of residential and visual amenity

10. (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 trees and hedges to be retained, as submitted with the application or subsequently agreed with the Planning Authority in accordance with conditions under this consent, 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 or hedging which are to be retained on the site.

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

11. Prior to commencement of development, the developer shall enter into water and or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

12. 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 interests of public health and surface water management.

13. The construction of the development shall be managed in accordance with a Construction and 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) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) 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;
- (f)
- (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) Provision of parking for existing properties at [specify locations] during the construction period;
- (k) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (l) 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.
- (m) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

- (n) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (o) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

14. 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. 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.

15. 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 interests of residential amenity, and to ensure the provision of adequate refuse storage.

16. 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.

17. Each apartment unit and the creche shall be provided with noise insulation to an appropriate standard, having regard to the location of the site within Dublin Airport Noise Zone C. Any proposals for crane operations shall be agreed in advance of construction, by the planning authority in consultation with the Dublin Airport Authority and Irish Aviation Authority.

Reason: In order to safeguard residential amenity.

18. 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 the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. A set-down and drop-off area shall also be provided for the creche. No gates, security barrier or other access control shall be permitted at entrances to the site. Details shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

19. Details of the arrangement and security provisions for bicycle spaces shall be submitted and 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.

20. A minimum of 10% of all car parking spaces should be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage 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, 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.

21. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge.

Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. Where areas are to be taken in charge, details shall include drawings shading areas to be taken in charge.

Reason: To ensure the satisfactory completion and maintenance of this development.

22. The land required for the proposed future upgrade of the R132 Road as part of the Bus Connects Core Bus Corridor Number 2, as illustrated in drawing Number L25 'Illustrative Bus Connects Interface', shall be kept free of any development and the boundary shall be setback at a future date when required and land seeded to Fingal County Council.

Reason: In the interests of the delivery of strategic transport infrastructure and traffic safety.

23. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and buildings shall be agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matters in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

24. 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.

25. 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 planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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.

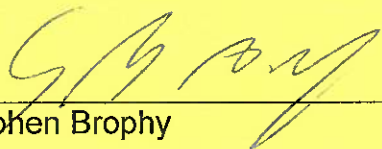
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

26. 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



Stephen Brophy

Date: 28/03/2023