An Bord Pleanála

Board Direction
BD-011938-23
ABP-315288-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/03/2023.

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:

(i) the location of the site on lands with a zoning objectives for residential development, ancillary commercial development and open space, and objective provisions as set out in the Fingal County Development Plan 2017-2023 in respect of residential development;

(ii) the nature, scale and design of the proposed development which is consistent with the provisions of the Fingal County Development Plan 2017-2023 and appendices contained therein;

(iii) the Donabate Local Area Plan 2016;

(iv) 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;

(v) 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;

(vi) provisions of Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage September 2021;

(vii) the availability in the area of a wide range of social and transport infrastructure;

(viii) to the pattern of existing and permitted development in the area;

(ix) to the submissions and observations received;

(x) the report of the Planning Inspector.

Appropriate Assessment

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a suitably zoned and adequately serviced urban site, the Natura impact statement submitted with the application, the Inspector's Report, and submissions on file. 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 grounds of appeal, submissions from the planning authority, the observers and prescribed bodies in the course of the application,

(d) the Inspector's report.

Reasoned Conclusions on the Significant Effects

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation including environmental conditions and are incorporated into the Board's decision.

The Board 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, as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the area.
- A significant direct effect on land and the landscape by the change in the use and appearance of a relatively large site from agricultural to residential. Given the location of the site within the urban boundary of Donabate and the public need for housing there, this effect would not have a significant negative impact on the environment.
- A significant potential negative effect on the cultural heritage of the area arising from the potential disturbance of previous identified archaeological material and undiscovered archaeological material on site but which would be mitigated by

the plan to incorporate existing features into open space areas, archaeological monitoring and recording, with mitigation residual effects on cultural heritage would not be significant.

- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures, with mitigation residual effects from noise and vibration would not be significant.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme, with mitigation residual effects on air would not be significant.
- Potential effects arising from traffic and transportation during construction and operational phases which will be mitigated by the implementation of a Construction and Environmental Management Plan, the implementation of a Mobility Management Plan, delivery of local road improvement measures, provision of three number vehicular access points and new pedestrian and bicycle links, with mitigation residual effects arising from traffic and transportation would not be significant.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the municipal foul sewerage system, and which will be mitigated during construction by appropriate management measures, with mitigation residual effects on water would not be significant.

The proposed development is not likely to have significant adverse effects on human health, biodiversity or soil. The likely significant environmental effects arising as a consequence of the proposed development have, therefore, been satisfactorily identified, described and assessed. They would not require or justify refusing permission for the proposed development or requiring substantial amendments to it.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed in each chapter of the Environmental Impact Assessment Report, and, subject to compliance with the conditions set out herein,

the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting Inspector.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, 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. Furthermore, the Board considered that the applicant demonstrated that sufficient capacity exists to serve the proposed development in terms of existing schools and that the proposed development would not compromise the future provision of additional schools at this location. 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, 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: In the interest of clarity.

3. The 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 22 of the Environmental Impact Assessment Report 'Mitigation Measures 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. The development shall be carried out in accordance with the phasing programme specified.

Reason: In the interest of orderly development.

5. The number of residential units permitted by this grant of permission is 432 number units in the form 93 number apartments (42 number one-bed units, 41 number two-bed units and 10 number three-bed units), 126 number duplex units (two to three storeys, 10 number one-bed units, 55 number two-bed units and 61 number three-bed units and 213 number houses (75 number two-bed units, 130 number three-bed units and eight number four-bed units).

Reason: In the interest of clarity.

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

Reason: In the interest of visual amenity.

7. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

8. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development or installation of lighting. Such lighting shall be provided prior to the making available for occupation of any apartment unit.

Reason: In the interests of amenity and public safety.

9. 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 visual and residential amenity.

Reason: In the interests of visual and residential amenity.

10. The road network serving the proposed development, including turning bays, junction with the public road, parking areas, footpaths and kerbs, access road to service areas shall be in accordance with the detailed construction standards of the planning authority for such works. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

11. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose.

(b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority.

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

12. 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. The car parking spaces for sole use of the car sharing club shall also be provided with functioning electric vehicle charging stations or points.

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

13. A total of 831 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 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. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

15. 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.

16. The site shall be landscaped, and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

17. (a) A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

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

18. 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.

19. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development with measures to reflect mitigation described in the submitted EIAR for the application, in addition to the following:

    (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;

    (b) Location of access points to the site for any construction related activity;

    (c) Location of areas for construction site offices and staff facilities;

    (d) Details of site security fencing and hoardings;

    (e) Details of on-site car parking facilities for site workers during the course of construction;

    (f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

(g) Measures to obviate queuing of construction traffic on the adjoining road network;

(h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;

(i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

(j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

(m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

(n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

20. 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.

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

(a) engage the services of a suitably qualified archaeologist to co-ordinate the mitigation proposals contained in the Archaeological Assessment report for archaeological excavation (preservation by record) of Archaeological Areas 1 to 4 in advance of construction works and Archaeological Monitoring of ground disturbance at construction stages across the development site,

(b) should previously unidentified archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.

(c) the planning authority and the Department of Housing, Local Government and Heritage shall be furnished with a report describing the results of the monitoring.

Reason: To ensure the continued preservation either in situ or by record of places, caves, site, features or other objects of archaeological interest.

22. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, plans and particulars showing all development works to be taken in charge designed to meet the standards of the planning authority.

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

23. 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 Act 2000, as amended, and of the housing strategy in the development plan of the area.

24. All of the permitted house or duplex units in the development, when completed, shall be first occupied as a place of residence by individual purchasers who are not a corporate entity and or by persons who are eligible for the occupation of social or affordable housing, including cost rental housing. Prior to commencement of development, the applicant or any person with an interest in the land shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act 2000, as amended, to this effect. Such an agreement must specify the number and location of each house or duplex unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

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 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.

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.

27. The developer shall pay to the planning authority a financial contribution in lieu of open space provision in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended (with specific reference to 'Note 5' of said Scheme) and Objective DMS57B of the Fingal Development Plan 2017-2023. 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 required to serve the development as provided for in the Development Contribution Scheme made under section 48 of the Act and the Fingal Development Plan 2017-2023.

Board Member _____ **Date:** 23/03/2023

Tom Rabbette