

An
Bord
Pleanála

Board Direction
BD-016855-24
ABP-319343-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 27/06/2024.

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 coming to its decision the Board has had regard to the following:

- (a) the nature, scale, and extent of the proposed development,
- (b) the provisions of the Project Ireland 2040 National Planning Framework,
- (c) the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018),
- (d) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments (July 2023),
- (e) the provisions of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024),
- (f) the provisions of the Design Manual for Urban Roads and Streets (2019),
- (g) the provisions of the Eastern and Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031,
- (h) the provisions of the Fingal Development Plan 2023-2029 including the 'RA - Residential Area' and 'OS - Open Space' zonings for the site,

- (i) the documentation submitted with the planning application, such as the Environmental Impact Assessment Report (EIAR) and the Appropriate Assessment Screening and Natura Impact Statement, plus the applicant's grounds of appeal,
- (j) the submissions and observations received on file including from the local authority, prescribed bodies, and third parties,
- (k) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects on European sites,
- (l) the planning history of the site and adjoining areas,
- (m) the report of the Planning Inspector.

Appropriate Assessment

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that North-West Irish Sea SPA (site code 004236) is the only European site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Appropriate Assessment Screening & Natura Impact Statement and associated documentation submitted with the planning application and grounds of appeal, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European site, namely North-West Irish Sea SPA, in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European site.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European site, having regard to the site's conservation objectives. In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European site, in view of the site's conservation objectives.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location, and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions received from the applicant, local authority, prescribed bodies, and observers 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 application.

Reasoned conclusion on the significant effects

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated where relevant, as follows:

- Population – There would significant positive impacts on population due to the increase in housing stock within the local area.
- Air Quality and Noise and Vibration – The subject site is near existing residential properties. Construction activity could give rise to dust and noise

nuisance from the subject site to nearby receptors. Recommended mitigation measures in this regard are well-proven, good practice measures capable of being successfully implemented.

- Biodiversity – The development site is of limited biodiversity value and there would be no significant adverse impact on flora or fauna as a result of the proposed development.
- Traffic and Transport – The proposed development would not give rise to undue additional vehicular traffic impact in the area.
- Landscape and Visual – The proposed development is generally consistent in mass, scale, and height with the existing and permitted development in the wider area and is in line with the provisions of relevant Guidelines. No undue landscape or visual impact would result from the proposed development.

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 as set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the inspector. Overall the Board is satisfied that the proposed development would not have any unacceptable effects on the environment.

Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the development objectives and other provisions of the Fingal Development Plan 2023-2029, would make efficient use of an appropriately zoned site on the edge of Balbriggan, would positively contribute to an increase in housing stock, commercial/retail floorspace, and both physical and recreational infrastructure in the area, would be acceptable in terms of urban design, layout and building height, would be acceptable in terms of pedestrian and traffic safety, and would provide an acceptable form of residential amenity for future occupants. The proposed development would not

seriously injure the residential or visual amenities of the area or unduly increase traffic volumes in the area.

The Board noted that two observations received were not referenced in the report, submissions from A Fagan, and N. Kenneally. The Board had regard to the issues raised by these submissions and considered these matters had been considered by the Inspector, in the Environmental Impact Assessment, Chapter 4 Population and Health that included an assessment of community infrastructure and services and in the section of the report that assesses permeability.

The Board considered the Inspectors assessment of a 10-year permission. The Board decided to grant permission for 5 years only, the Boards reasoning is based on the planning history on this site, the scale and nature of the development proposed, and the infrastructure included as part of this application.

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, as amended by the further plans and particulars submitted to the local authority on 20th December 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the local authority, the developer shall agree such details in writing with the local authority prior to commencement of development or as otherwise indicated and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The period during which the proposed development hereby permitted may be constructed shall be five years from the date of this Order.

Reason: In the interest of clarity.

3. The mitigation measures identified and contained within the Environmental Impact Assessment Report submitted to the local authority as part of the further information response, the Appropriate Assessment Screening & Natura Impact Statement submitted to An Bord Pleanála with the grounds of appeal, and other plans and particulars submitted with the application shall be implemented in full, except where otherwise required by conditions attached to this permission.

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

4. Prior to the commencement of development, the applicant shall transfer the area of land under the applicant's ownership adjoining the south of the development site, as shown on Site Layout Plan Sheet No. 6 (drawing no. 1902-Site-0526-A), to the local authority. This shall be done either in accordance with the Deed of Transfer submitted with the appeal (Appendix F, of the First Party Appeal submitted on Appeal, dated 20th March 2024), or the applicant shall enter a Section 47 agreement with the Planning Authority that aligns with the content of the Deed of Transfer submitted with the Appeal, (Appendix F, of the First Party Appeal submitted on Appeal, dated 20th March 2024).

Reason: To facilitate the continuation of the road proposal objective contained within the Fingal Development Plan 2023-2029, to comply with the provisions of the planning application, and in accordance with the proper planning and sustainable development of the area.

5. Prior to the commencement of development the developer shall submit, for the written approval of the local authority:
 - (a) detailed layouts for the public open space areas associated with the proposed development.

- (b) revised floor plans, elevations, and section drawings for Unit FP_102 (Duplex L adjacent to the south east of public open space no. 4), removing overlooking potential to the south from the second floor living room and increasing passive surveillance over the open space area to the east.
- (c) revised floor plans, elevations, and section drawings for Duplex N2 adjacent to the south of public open space no. 4, removing overlooking potential to the east from the first floor kitchen/dining room.
- (d) revised floor plans, elevations, and section drawings for the J and K house types along the eastern site boundary (TL_01 to TL_10 and TL_21 to TL-24) removing overlooking potential to the east from the first floor landing.
- (e) revised floor plans, elevations, and section drawings for Unit R.03 (Duplex R adjoining the south of public open space no. 6), removing overlooking potential to the south from the first floor kitchen/living/dining room and balcony.
- (f) revised floor plans, elevations, and section drawings for house type D to provide an aggregate bedroom area of 25 square metres.
- (g) revised floor plans, elevations, and section drawings for house type H to provide an aggregate bedroom area of 43 square metres.

Reason: In the interests of existing residential amenity and the residential amenity of future occupants.

6. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted and agreed with the planning authority.

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

7. Prior to commencement of development the developer shall submit, for the written approval of the local authority:

- (a) the detailed design and specification of the signalised junction of Boulevard Road and R122.

- (b) the detailed design of all pedestrian crossings.
- (c) the detailed design of all proposed junctions.
- (d) the detail design and locations of bus stops.
- (e) the detailed design of all traffic calming proposals.

Reason: In the interests of the safety of pedestrian, cyclist, and traffic safety and the proper planning and sustainable development of the area.

8. (a) The detailed design of the tertiary permeability links shall be agreed in writing with the local authority prior to commencement of development on site and delivered in line with the agreed phasing plan.
- (b) Prior to demolition of the outbuilding/shed the developer shall agree, in writing with the local authority, a manner of reusing the stone within the proposed development site.

Reason: In the interests of encouraging and facilitating the use of sustainable modes of transport, residential amenity, cultural heritage, and the proper planning and sustainable development of the area.

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

Reason: To comply with objective DMSO194 of the Fingal Development Plan 2023-2029.

- 10.(a) The development shall be constructed in accordance with the phasing diagram shown on drawing no. 1902-SITE-0519-A submitted with the grounds of appeal. For clarity, the C-Ring Road within the site boundary, the class 1 public open space, and the upgrade of the Boulevard Road/R122 shall all be constructed as part of the first phase.

(b) Phase 2 of the proposed development shall only commence once the developer has carried out the phase 1 development to the written satisfaction of the local authority.

Reason: In the interest of orderly development.

11. (a) Full details of the specific use of the commercial units shall be submitted to and agreed in writing with the local authority prior to occupation of the units.

(b) Prior to the completion of each phase of the development hereby permitted, the permitted childcare unit, commercial unit, and/or communal unit in that phase shall be fully fitted out and suitable for immediate occupation and operation.

(c) Details of all childcare, commercial, and communal unit signage shall be submitted to, and agreed in writing with, the planning authority prior to operation of any of these units

Reason: In the interests of clarity, the orderly development of the site, and the visual amenities of the area.

12. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the local authority prior to commencement of development. Roof tiles or slate shall be dark grey/blue/black.

Reason: In the interest of visual amenity.

13. 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.

14. (a) The developer shall engage the services of a suitably qualified archaeologist to co-ordinate and implement the mitigation proposals contained in section 14.7 of the Environmental Impact Assessment Report for preservation in situ and archaeological excavation (preservation by record), under licence, of the archaeological features already identified in advance of construction works, and archaeological monitoring of ground disturbance at construction stage across the development site.

(b) The archaeologist shall produce an appropriate schedule for all the mitigation measures to be applied. This schedule, to be integrated with all of the relevant components on the construction programme, shall be submitted with Archaeological Excavation Licence applications.

(c) 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 shall facilitate the archaeologist in recording any material found.

(d) The local authority and the Department shall be furnished with reports describing the results of the monitoring and archaeological excavations.

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

15. The internal road network serving the proposed development, including turning bays, junctions with the public road, parking areas, footpaths and kerbs, shared surfaces, raised tables, signage etc. shall be in accordance with the detailed construction standards and requirements of the local authority for such works and with the relevant provisions of the Design Manual for Urban Roads and Streets (DMURS). 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.

16. 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.

17. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Outdoor Lighting Report, details of which shall be submitted to, and agreed in writing with, the local authority prior to commencement of development or as otherwise agreed in writing with the local authority. The detail shall include measures for the protection of bats. Such lighting shall be provided in each phase prior to the making available for occupation of any residential unit in that phase.

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

18. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the local authority for such works and services.

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

19. The developer shall enter into water and/or waste water connection agreement(s) with Uisce Éireann prior to commencement of development.

Reason: In the interest of public health.

20. The site shall be landscaped in accordance with the detailed scheme of landscaping which accompanied the application submitted, unless otherwise agreed in writing with the local authority prior to commencement of development. The landscape scheme shall be implemented fully in the first planting season following completion of each phase 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.

Reason: In the interests of residential and visual amenity.

21.(a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned for the residential, commercial, childcare, and communal units, and shall be reserved solely for those purposes.

(b) A minimum of 10% of communal car parking spaces shall be provided with functioning 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 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.

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

(d) Cycle parking and storage shall comply with specific planning policy requirement (SPPR) 4 of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024). All cycle parking details shall be submitted to and agreed in writing with the local authority and shall be in situ prior to occupation of each phase of the development.

Reason: To ensure that adequate car and bicycle parking facilities are available to serve the proposed development.

22.(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 shall be submitted to, and agreed in writing with, the planning authority not later than 6 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.

23. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP shall be submitted to the local authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

24. 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 local 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 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. Hoardings shall include a one square metre area on each frontage detailing site management contact details;
- (e) details of on-site car parking facilities for site workers during the course of construction;
- (f) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (g) measures to obviate queuing of construction traffic on the adjoining road network;
- (h) measures to prevent the spillage or deposit of clay, rubble or other debris on the road network;
- (i) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any road or footpath during the course of site development works;
- (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;
- (n) a record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority;
- (o) a community liaison officer shall be appointed for the duration of the construction works.

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

25. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 0800 to 1300 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 local authority.

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

26.A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the local authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interests of environmental protection and orderly development.

27. (a) The areas of the development for Taking in Charge shall be agreed in writing with the local authority prior to the commencement of development on site.

(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 local authority before any of the residential units are made available for occupation.

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

28. 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 local 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 & 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 local 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 & Development Act, 2000 (as amended), and of the housing strategy in the development plan of the area.

29. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the local authority (such agreement must specify the number and location of each house or duplex unit), pursuant to section 47 of the Planning & Development Act, 2000 (as amended), that restricts all houses and duplex 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.

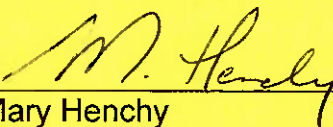
30. Prior to commencement of development, the developer shall lodge with the local authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge of roads, footpaths, watermains, drains, public open 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 of any part of the development. The form and amount of the security shall be as agreed between the local 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.

31. The developer shall pay to the local authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the local 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 & Development Act, 2000 (as amended). The contribution shall be paid prior to commencement of development or in such phased payments as the local 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 local 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 & 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


Mary Henchy

Date: 27/06/2024