



An
Bord
Pleanála

Board Direction
BD-018544-24
ABP-320885-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/12/2024.

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

The Board made its decision consistent with the Climate Action Plan 2024.

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

- (a) the nature, scale, and extent of the proposed development and the pattern of existing development in the area,
- (b) the provisions of the Project Ireland 2040 National Planning Framework,
- (c) the objectives and targets of the National Biodiversity Action Plan 2023-2030, which have been considered,
- (d) the provisions of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024),
- (e) the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018),
- (f) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments (July 2023),
- (g) the provisions of the Design Manual for Urban Roads and Streets (2019),

- (h) the provisions of the Eastern and Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031,
- (i) the provisions of the Fingal Development Plan 2023-2029 including the 'RA - Residential Area' zoning for the site,
- (j) the provisions of the Donabate Local Area Plan (LAP) 2016 (as extended) including the 'RA - Residential Area' zoning for the site,
- (k) the documentation submitted with the planning application, such as the Environmental Impact Assessment Report (EIAR) and the Natura Impact Statement, and the third parties' grounds of appeal,
- (l) the submissions and observations received on file including from the local authority, prescribed bodies, and first and third parties,
- (m) 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,
- (n) the planning history of the site and the vicinity of the site, and,
- (o) the report of the Planning Inspector.

Appropriate Assessment Screening

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that Rogerstown Estuary Special Area of Conservation (site code 000208), Malahide Estuary Special Area of Conservation (site code 000205), Rogerstown Estuary Special Protection Area (site code 004015), and Malahide Estuary Special Protection Area (site code 004025) are the only European sites in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment is therefore required.

Appropriate Assessment

The Board was satisfied that a full examination of the potential impacts has been analysed and evaluated using the best scientific knowledge. The potential for significant effects on the following European sites was identified:

- Rogerstown Estuary Special Area of Conservation (site code 000208),
- Malahide Estuary Special Area of Conservation (site code 000205),
- Rogerstown Estuary Special Protection Area (site code 004015), and
- Malahide Estuary Special Protection Area (site code 004025)

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the above European Sites in view of the site's Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' conservation objectives.

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 aforementioned European Sites.

Having regard to

- (i) the mitigation measures proposed, and
- (ii) the scientific information set out in the Natura Impact Statement

the Board concluded that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of Rogerstown Estuary Special Area of Conservation (site code 000208), Malahide Estuary Special Area of Conservation (site code 000205), Rogerstown Estuary Special Protection Area (site code 004015), and Malahide Estuary Special Protection Area (site code 004025) or any other European site, in view of the sites' Conservation Objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

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:

- significant direct positive impact for population, due to the substantive increase in the housing stock during the operational phase including 40% social and affordable housing units,
- significant positive socio-economic benefit for population through construction stage employment and associated construction phase economic activity and an increase in the local population for services in the operational phase,

- significant, indirect, negative effects on wider biodiversity as a result of potentially contaminated surface water during the construction phase, which would be mitigated by appropriate construction phase measures,
- significant, direct, negative effects on the hydrological network as a result of potentially contaminated surface water during the construction phase, which would be mitigated by appropriate construction phase measures,
- significant, direct negative noise effects arising for population along some site boundaries during the construction phase, which would be mitigated as much as practicable by a suite of appropriate construction phase management measures,
- significant direct negative landscape impact in the immediate environs and visual impacts to nearby receptors during the construction phase, which would be mitigated as much as practical by appropriate construction phase management measures,
- significant beneficial impact on the landscape in the immediate environs in the operational phase as it would improve the landscape/townscape, it would achieve local policy objectives, and it would contribute to local placemaking,
- significant direct negative impact on currently unknown archaeology during the construction phase, which would be mitigated by monitoring of ground disturbance works by a suitably qualified archaeologist who would consult with the Department of Housing, Local Government and Heritage should archaeological material be recorded,
- significant, indirect, short-term, negative environmental effects from incorrect storage/management and/or inappropriate disposal/recycling/recovery of a range of hazardous and non-hazardous waste materials, including soil, that will be generated on site, which would be mitigated by appropriate construction phase measures set out in a Resource Waste Management Plan,
- significant, indirect, long-term, negative environmental effects from improper on-site storage/management of waste and off-site disposal, which would be mitigated by appropriate operational phase measures in an Operational Waste Management Plan.

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 both the Fingal Development Plan 2023-2029 and Donabate Local Area Plan (2016) (as extended), would make efficient use of an appropriately zoned site, would positively contribute to an increase in housing stock, 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 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 received by the planning authority on 8 th July 2024, 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 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 contained in the submitted Environmental Impact Assessment Report (EIAR) shall be implemented.

Reason: To protect the environment.

4. The mitigation measures contained in the Natura Impact Statement (NIS) shall be implemented.

Reason: To protect the integrity of European sites.

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

(a) revised floor plans, elevations, and section drawings for house type H2C to provide an aggregate bedroom area of 25 square metres.

(b) revised floor plans, elevations, and section drawings for house type H4B to provide an aggregate living area of 40 square metres.

(c) revised floor plans, and section drawings for duplex unit type D2LA to provide at least 6 square metres storage.

(d) revised layouts for the mid-terrace houses to ensure that paved areas which are not identified as car parking spaces are not used for the purpose of car parking.

(e) a site layout plan indicating all boundary treatments.

(f) a street and garden tree planting plan.

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

6. Unless otherwise agreed in writing with the planning authority, no residential unit in the proposed development hereby permitted shall be occupied until such time as the childcare facility permitted as part of Ballymastone Phase 1 (FCC reg Ref LRD0008/S3 & ABP-315288-22) is operational.

Reason: In the interest of residential amenity.

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

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

8. The materials, colours, and textures of the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

9. The proposed modal filter shall not be provided on The Links Extension Road.

Reason: In the interest of vehicular permeability.

10. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of any development. This shall demonstrate that all boundary treatments, landscaping and planting in a given phase shall be completed prior to the occupation of the residential units in that phase of development. In the event of any disagreement on phasing between the developer and the planning authority, the matter shall be referred to An Bord Pleanála for determination.

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

11. The following shall be complied with in full:

- (a) The areas of the development for Taking in Charge shall be agreed in writing with the Planning Authority, prior to the commencement of development on site.
- (b) All areas not intended to be taken in charge by the Local Authority, shall be maintained by a legally constituted management company.
- (c) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would

have responsibility, shall be submitted to, and agreed in writing with, the Planning Authority before any of the residential units are made available for occupation.

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

12. There shall be a separation distance of at least 2.3 metres between the side walls of detached, semi-detached, and end of terrace houses and duplex blocks.

Reason: To comply with objective DMSO26 of the Fingal Development Plan 2023- 2029.

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. Public lighting shall be provided in accordance with a scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall include lighting along pedestrian routes through open spaces.

Reason: In the interests of amenity and public safety.

15. The internal road network, including all footpaths and cycle paths, serving the proposed development, including turning bays, junctions with the public roads, parking areas, footpaths and kerbs, raised tables, signage, off-road cycle paths etc. shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in 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. (a) All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) A detailed car parking layout and Car Parking Management Plan for the communal car parking spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) Where driveways are proposed they shall not exceed four metres in width and six metres in length facilitating only a single parked car and pedestrian access. No additional development shall take place within the curtilage of each unit to provide for additional vehicle parking.
- (d) Adequate safe and secure bicycle parking spaces shall be provided within the site for a mix of bicycle types. Detail of the layout and demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (e) Details of the operation and maintenance of the cycle storage facilities shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (f) Electric charging points to be provided at an accessible location(s) for charging cycles/scooters/mobility scooters. Details to be submitted to, and agreed in writing with, the planning authority.
- (g) The development shall be carried out and operated in accordance with the provisions of the Mobility Management Plan submitted to the planning authority on 30th April 2024. The specific measures detailed in section 6 of the Plan to achieve the objectives and modal split targets for the development shall be implemented in full upon first occupation. The developer shall undertake an annual monitoring exercise to the satisfaction of the planning authority for the first five years following first occupation and shall submit the results to the planning authority for consideration and placement on the public file.

Reason: In the interests of sustainable transport and safety and to achieve a reasonable modal split in transport and travel patterns.

17. 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.

18. (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, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Thereafter, the agreed waste facilities shall be maintained and 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: To provide for the appropriate management of waste and, in particular, recyclable materials, in the interest of protecting the environment.

19. Prior to the commencement of development, the developer or any agent acting on its behalf, 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 must be submitted to the planning 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 proper planning and sustainable development.

20. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health.

21. Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann to provide for service connections to the public water supply and wastewater collection network.

Reason: In the interest of public health and to ensure adequate water and wastewater facilities.

22. All mitigation measures in relation to archaeology and cultural heritage as set out in chapter 15 (Cultural Heritage, Archaeology & Architectural Heritage) of the Environmental Impact Assessment Report included in the application shall be implemented in full. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any archaeological investigative work/excavation required following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

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

23. (a) The landscaping scheme shown on drawing no. 19164-C-2-101 as submitted to the planning authority on 30th April 2024 shall be carried out within the first planting season following substantial completion of external construction works.

(b) 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 relevant area is taken in charge by the planning 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.

Reason: In the interests of visual and residential amenity.

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 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 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 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 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, and environmental protection

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

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

26. 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 sections 96(2) and (3)(b) (Part V) of the Planning & Development Act, 2000 (as amended), unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, 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 & Development Act, 2000 (as amended), and of the housing strategy in the development plan for the area.

27. (a) 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 planning 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 relevant 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.

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

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

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

28. Prior to commencement of development, the developer 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 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 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.

29. (a) Prior to the commencement of development the developer shall submit, for the written approval of the planning authority, revised drawings and associated schedules which clearly indicate the location and sizes of the public open space and environmental open space.

(b) If any shortfall in public open space is identified the developer shall pay to the planning authority a financial contribution as a contribution in lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority which is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the adopted Development Contribution Scheme made under section 48 of the Planning & Development Act, 2000 (as amended). The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any indexation provisions of the Scheme at the time of payment.

Reason: In the event of a shortfall in the provision of public open space 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 (as amended) be applied to the permission.

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 & 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 & 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: 20/12/2024