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## **Planning and Development Acts 2000 to 2020**

### **Planning Authority: Louth County Council**

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 9<sup>th</sup> day of September 2020 by PJ and EJ Doherty Limited care of Genesis Planning Consultants of 27 Patrick Street, Newry, Co Down.

#### **Proposed Development comprises of the following:**

257 number residential units along with provision of a crèche. Particulars of the development comprise as follows:

- (a) Site excavation works to facilitate the proposed development to include excavation and general site preparation works along with removal of existing site compound.
- (b) The provision of a total of 163 number residential dwellings which will consist of the following unit mix:
  - 57 number two-bedroom dwellings (house types 1, 1a, 1b),
  - 76 number three-bedroom semi-detached dwellings (house types 2, 2a, 2b, 3, 6),
  - Five number three-bedroom terrace dwellings (terrace block 3),
  - 13 number four-bedroom semi-detached dwellings (house type 6a),
  - 12 number four-bedroom detached dwellings (house types 4 and 5),

- The provision of a total of 94 number apartments or duplex units consisting of 19 number one-bedroom units, 38 number two-bedroom units and 37 number three-bedroom units;
- (d) Provision of a creche;
- (e) Provision of associated car parking at surface level via a combination of in-curtilage parking for dwellings and via on-street parking for the creche, duplexes and apartments;
- (f) Provision of four number electric vehicle charge points adjacent to the creche building with associated site infrastructure ducting to provide charge points for residents throughout the site;
- (g) Provision of associated bicycle storage spaces with associated enclosures both at surface level throughout the site and bicycle storage facilities within apartment Blocks One and Two;
- (h) Use of existing access from Dublin Road with associated upgrade works to facilitate vehicular, pedestrian and cycle access to include provision of a right turning lane;
- (i) Provision of a cycle path along Dublin Road;
- (j) Provision of internal access roads and footpaths and associated connections to the existing Earlsfort residential estate;
- (k) Provision of residential communal open space areas (including formal play areas) including all hard and soft landscape works with public lighting, planting and boundary treatments to include boundary walls, railings and fencing;
- (l) Provision of two number Electricity Supply Board substations;
- (m) Internal site works and attenuation systems to include a hydrocarbon and silt interceptor on the storm network prior to discharge to the adjacent watercourse;
- (n) All ancillary site development and construction works to facilitate foul, water and service networks for connection to the existing foul, water, gas and Electricity Supply Board networks all located at Dublin Road, Haggardstown, Dundalk, Co. Louth.

## **Decision**

**Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- (a) The location of the site on lands with a zoning objective for residential development;
- (b) The policies and objectives as set out in the Dundalk Environs Development Plan 2009-2015 (as extended) and Louth County Development Plan 2015-2021;
- (c) The nature, scale, density and design of the proposed development;
- (d) The pattern of existing development in the area;
- (e) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (f) Project Ireland 2040 The National Planning Framework;
- (g) The provisions of the Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- (h) The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended;

- (i) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in March 2018;
- (j) The Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (k) The Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009;
- (l) Submissions and observations received;
- (m) The Chief Executive's Report of the planning authority; and
- (n) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment screening and environmental impact assessment screening.

### **Appropriate Assessment Screening**

The Board considered the Screening Report for Appropriate Assessment, the Natura impact statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Dundalk Bay Special Area of Conservation (Site Code 000455), and the Dundalk Bay Special Protection Area (Site Code 004026), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

## **Appropriate Assessment**

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 European Sites, namely, the Dundalk Bay Special Area of Conservation (Site Code 000455), and the Dundalk Bay Special Protection Area (Site Code 004026), in view of the sites' 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:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European Sites.

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 the sites' 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 Sites, in view of the sites' Conservation Objectives.

## **Environmental Impact Assessment Screening**

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

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- The location of the site on lands that are zoned for residential use under the provisions of the Louth County Development Plan 2016 – 2021 and the results of the strategic environmental assessment (SEA) of the Louth County Development Plan 2015 – 2021 undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001, as amended and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- the guidance 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 August 2003, and
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended,

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 and that the preparation and submission of an environmental impact assessment report would not therefore be required.

## **Conclusions on Proper Planning and Sustainable Development**

The Board considers that the proposed development is, apart from the parameters of Policy CS2 and Policy HC 20, complies with the provisions of both the Dundalk and Environs Development Plan 2009-2015 (as extended) and the Louth County Development Plan 2015-2021 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene Policy CS2 and Policy HC20 of the Dundalk and Environs Development Plan 2009-2015 as outlined below: -

The Board considers that, having regard to the provisions of section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified for the following reasons and considerations:

- The proposed development falls within the definition of strategic housing as set out in Planning and Development (Housing) and Residential Tenancies Act 2016, as amended.
- The Government's policy to provide more housing as set out in the Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016.

The Board considers that, having regard to the provisions of section 37(2)(b)(ii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified for the following reasons and considerations:

- The core strategy of the Louth County Development Plan 2015 – 2021, which allocated an additional 1,600 units for the period 2015-2021 in Dundalk and required an additional 57 hectares of phase 1 lands be provided in the town. The Dundalk and Environs Development Plan 2009-2015 was not varied to take account of these additional lands.
- Promote the Strategic Objectives of the Louth County Development Plan 2015-2021 to direct new development in accordance with the settlement hierarchy identified in the Plan, which is not reflected in the Dundalk and Environs Development Plan 2009-2015.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified for the following reasons and considerations:

Policy CS 2 – Phasing: The proposed material contravention to Policy CS2 of the Dundalk and Environs Development Plan 2009 – 2015 (as extended) is justified by reference to:-

- Objective 7 and Objective 33 of the National Planning Framework 2040 which encourages population growth in strong employment and service centres of all sizes, supported by employment growth and priorities the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- Section 4.5 Regional Growth Centres of the Eastern and Midlands Regional Assembly Regional Spatial and Economic Strategy which envisions a population target of 50,000 for the entire settlement of Dundalk up to 2031.



Policy HC 20 - Open Space: The proposed material contravention to Policy HC20 the Dundalk and Environs Development Plan 2009 – 2015 (as extended) is justified by reference to:-

- National Policy Objective 13 of the National Planning Framework 2040 which allows for planning and related standards to be based on performance criteria that seek to achieve well-designed high-quality outcomes.

The Board also considers that, having regard to the provisions of section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified for the following reasons and considerations:

- Since the making of the Dundalk and Environs Development Plan 2009-2015 (as extended) permission was granted under Strategic Housing Development An Bord Pleanála reference number ABP-304782-19 in 2019 for 483 number residential units and a crèche on lands designated as Phase 3, approximately 1.6 kilometres north east of the subject site and Strategic Housing Development An Bord Pleanála reference number ABP-303253-18 in 2019 for 166 number residential units and a creche on lands designated Phase 2, approximately 900 metres north east of the subject site.

In accordance with section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, the Board considered that the criteria in section 37(2)(b)(i), (ii), (iii) and (iv) of the Planning and Development Act 2000-2020 were satisfied for the reasons and considerations as set out in the decision.

Furthermore, the Board considered that, subject to compliance with the conditions set out below, that 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, density, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience and public health. 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 proposed development shall be amended as follows: -  
Apartment Block 2 shall be omitted from the scheme. This area shall be seeded and maintained until a further permission is secured for its development.

**Reason:** In the interest of orderly development.

3. House numbers 42 to 60 inclusive and duplex numbers 89 to 96 inclusive shall be omitted from the scheme. These areas shall be seeded and maintained until a further permission is secured for their development.

**Reason:** In the interest of avoiding premature development, arising from flood risk concerns, in particular the measures proposed in the Neagh Bann Floor Risk Management Report.

4. The proposed development shall be amended as follows: -
- (a) The internal road serving house numbers 217 to 224 which runs parallel to the Dublin Road and provides access into Earlsfort to the north shall be redesigned as a homezone, in accordance with Design Manual for Urban Roads and Streets. Any residual land be allocated as private open space for house numbers 217 to 224. A raised table and associated road markings and signage shall be provided at the junction with Earlsfort.
  - (b) The road between duplex unit numbers 69 to 88 and the rear gardens of house numbers 61 to 68 shall be redesigned as a homezone, in accordance with Design Manual for Urban Roads and Streets. Any residual land shall be incorporated into private open space for houses numbers 61 to 68 and the duplex units.

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.

**Reason:** In the interest of residential and visual amenity.

5. Open Space Area 3 as indicated on Drawing Number 40294-206 shall be completed prior to the commencement of development of Phase 2 development. Details of the facilities should be provided in the open space area shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interest of residential amenity.

6. The footpath along the eastern site boundary shall be constructed to the boundary wall with Ard na Mara to allow for future connectivity.

**Reason:** In the interest of permeability and connectivity.

7. The boundary treatment along the Dublin Road shall comprise a low boundary wall with a maximum height of 1.1 metres, unless otherwise agreed in writing with the planning authority.

**Reason:** in the interest of visual amenity.

8. The proposed bin and bicycle storage located at the western site boundary with the Dublin Road shall be relocated to the satisfaction of the planning authority.

**Reason:** In the interest of visual amenity.

9. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and buildings 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.

10. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

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

11. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall include the area of open space and embankment at the southern site boundary and adjacent to Haggardstown Stream which is located within the blue line boundary. It shall cover a period of at least three years and shall include details of the arrangements for its implementation.

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

12. Details of the public cycle track and footpath along Dublin Road shall comply with the detailed standards of the planning authority for such road works, and shall comply with the standards set out in the Design Manual for Urban Roads and Streets.

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

13. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

14. A minimum of 10% of communal 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. Detailed proposals to comply with this requirement shall be submitted to, 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.

15. Proposals for an estate 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 estate and street signs, and numbers shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

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. 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 interest of public health and surface water management.

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

**Reason:** In the interest of public health.

19. Within twelve months of the date of this Order, the developer shall enter into a wayleave agreement with the planning authority to provide a 10 metre wide access riparian corridor along the watercourse referred to as the Haggardstown Stream in the documentation submitted with the application. The wayleave shall remain free of from all structures and other objects.

**Reason:** In the interest of orderly development and floor prevention.

20. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

21. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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



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

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

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, noise management measures and off-site disposal of construction or demolition waste.

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

25. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse or bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company
- (b) Details of the management company contract, and plans and 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 this development in the interest of residential amenity.

26. 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.

