

An
Bord
Pleanála

Board Order ABP-312189-21

Planning and Development Acts 2000 to 2021

Planning Authority: Fingal County Council

Planning Register Reference Number: F21A/0287

Appeal by The Land Development Agency care of John Spain Associates of 39 Fitzwilliam Place, Dublin, by Philip O'Connor of 1 Ballygossan Park, Golf Links Road, Skerries, County Dublin and by other against the decision made on the 15th day of November, 2021 by Fingal County Council to grant subject to conditions a permission to the said Land Development Agency in accordance with plans and particulars lodged with the said Council.

Proposed Development: The proposed development consists of advance infrastructure works on a 2.5 hectare stie at Hackettstown, Skerries to facilitate future residential development on lands zoned for residential use to the north and south of subject site. These infrastructural works include: (1) construction of a new Link Road, crossing the Regional Drainage Facility and providing access to the future residential zoned land to the south from the existing Ballygossan Park to the north, (2) construction of Regional Drainage Facility (RDF) for the surface water management of the Hackettstown residential zoned lands, (3) foul, surface water and water supply services to facilitate future development at Ballygossan Park Phase 2, (4) foul, surface water and water supply services to facilitate the future development of lands to the south, (5) planting and landscaping of open space areas, including provision of footpaths and viewing point. Provision of public lighting on Link Road/footpaths, (6) diversion and undergrounding of existing overhead power lines and (7) utilisation of

existing field gate on Golf Links Road as a temporary access road for construction traffic, all at Golf Links Road and Ballygossan Park, Hackettstown, in the townlands of Milverton and Townparks, Skerries, County Dublin. Further public notices were received by the planning authority on the 21st day of September, 2021.

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.

Reasons and Considerations

Having regard to the location of the site on lands with a zoning objective for open space and residential development in the Fingal County Development Plan 2017-2023, the nature, scale and design of the proposed development, the Design Manual for Urban Roads and Streets (DMURS), the National Cycle Manual, the Planning System and Flood Risk Management Guidelines (including the associated Technical Appendices) issued by the Department of Housing, Local Government and Heritage in December, 2020 and to the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable proposal at this location, would not seriously injure the residential or visual amenity of the area, would be acceptable in terms of design and layout and would be acceptable in terms of pedestrian, cyclist and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening assessment in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives.

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Skerries Island Special Protection Area (Site Code 004122) is the only European Site 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 associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for Skerries Island Special Protection Area (Site Code 004122), 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:

- (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 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, in compliance with Section 172 of the Planning and Development Act 2000 as amended, taking into account:

- (a) the nature, scale, location and extent of the proposed development in an urban area served by foul and surface sewerage systems,
- (b) the Environmental Impact Assessment Report and associated documentation submitted with the application,
- (c) the submissions from the planning authority, the prescribed bodies and the public in the course of the application, and
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the developer, identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment.

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 developer made in the course of the application.

The Board considers that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- (i) Population and Human Health, Land and Material Assets: Direct positive effects arising from the provision of facilitative infrastructure, in an area zoned for development. Mitigation measures proposed during construction will ensure no significant negative impact on the amenity of residents in the vicinity of the site from construction activities.

- (ii) Biodiversity: The ecological/riparian strip is retained in the most part and any potential long-term impact from the regarding of the drainage banks is mitigated by a significant amount of planting.
- (iii) Landscape and Visual Impact: The development plan defines the site and surrounding area as a highly sensitive landscape location. The proposed works and associated planting will not significantly alter the landscape or have a negative visual impact on the surrounding area.
- (iv) Lands and Soils: The regrading of the site entails the excavation of topsoil (7,440 cubic metres) which will be reused within the site. Mitigation measures in the Construction Environmental Management Plan include measures to prevent contamination of the soils and siltation of watercourses.
- (v) Hydrogeology and Hydrology: The SuDS measures and use of the land drain in the proposed development will have a long-term positive impact. Mitigation measures during construction will prevent contamination of the soils and siltation of watercourses.
- (vi) Air Quality and Climate: Short term negative impacts on the air quality from construction will be mitigated by the use of good practice construction methods and the implementation of a Construction Environmental Management Plan.
- (vii) Noise and vibration during the construction phase will be negative and short term and mitigated by compliance with all best practice construction methods such as noise restricting plan and the restriction on construction hours.
- (viii) Traffic and Transport: The development will give rise to short-term construction traffic impacts, mitigated by traffic management and other environmental considerations in the Construction Environmental Management Plan. The upgrade of pedestrian and cycle routes through the site will provide a long-term positive impact for the wider community.
- (ix) The likely significant environmental effects arising as a consequence of the proposed development have therefore been satisfactorily identified, described and assessed.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in 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.

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 the 9th day of September 2021, 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. All mitigation and monitoring measures outlined including the Environmental Impact Assessment Report (EIAR) submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protection of the environment.

3. All mitigation and monitoring measures outlined, including the Natura Impact Statement submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

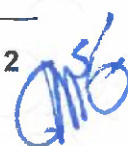
Reason: In the interest of protection of the environment.

4. The proposed development shall be amended so that the permitted two-way cycle track shall be a minimum of 2.5 metres wide with a 1.25-metre-wide grass verge. Prior to commencement of development, the developer shall submit a revised drawing in this regard for the written agreement of the planning authority.

Reason: In the interest of cycle traffic safety and convenience and the proper planning and sustainable development of the area.

5. The following requirements of the planning authority shall be carried out in full:
- (a) A final Construction Management Plan and Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of construction.
 - (b) Road Safety Audits shall be carried out as part of the permitted development at the relevant stages as outlines in current edition of Transport Infrastructure Ireland guidelines GE-STY-01027.
 - (c) All roads, footpaths and finishes shall comply with the Council's Standards for Taking in Charge.
 - (d) No objects, structures or landscaping shall be placed or installed within the visibility triangle which would interfere or obstruct (or could obstruct over time) the required visibility envelopes at crossing points and junctions.
 - (e) All works shall be carried out at the developer's expense according to the specifications and conditions of the planning authority.

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



6. The following requirements shall be complied with:
- (a) Access for Irish Rail staff to culverts/bridges under the railway shall not be hindered.
 - (b) The developer shall not undermine the integrity of the embankment which runs adjacent to the railway track.
 - (c) Any excavations which infringe upon the Track Support Zone shall require permission from Iarnród Éireann.
 - (d) A minimum 2.75 metres clearance shall be kept from all Over Head Line Equipment (OHLE) Structures and wires. Prior to commencement of development, the developer shall contact Iarnród Éireann to agree a safe system of work.
 - (e) Should the permitted development require the use of a crane that could swing over the railway property, the developer shall enter into an agreement with Iarnród Éireann/C.I.E in relation to this issue.
 - (f) Any proposed services that are required to cross along, over or under the railway property shall be subject of a wayleave agreement with Iarnród Éireann.
 - (g) No overhang of any part of the development over the railway property is permitted.
 - (h) Lights from the permitted development, either during the construction phase or the operational phase shall not cause glare or in any way impair the vision of train drivers or personnel operating on track machines.
 - (i) Prior to any felling of trees which are proximate to the railway line, the developer shall arrange with Iarnród Éireann for a safe system of work to be established to undertake the work.
 - (j) A height restricted bridge (Bridge UBB50) under the railway is located to the north of the site on the R127 Skerries Road. No construction traffic and no over-height vehicles shall traverse under Bridge UBB50. The routes for all high vehicle movements shall be planned.

Reason: In the interests of amenities and public safety.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: In the interest of public health.

8. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

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

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall carry out site testing and monitor all site investigations and other excavation works,
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove, and
- (d) agree in writing the archaeological method statements for mitigation with the Department of Culture, Heritage and the Gaeltacht, prior to commencement of any works on site.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection (in situ or by record) of any remains that may exist within the site.

10. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

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

11. Site development and building works shall be carried out only between the hours of 0800 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.

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

Reason: In the interests of amenity and public safety.

13. The landscaping scheme, as submitted to the planning authority on the 9th day of September 2021 shall be carried out within the first planting season following substantial completion of external construction works. The Tree Protection Plan shall be implemented in full under the submission of the appointed Arboricultural Consultant. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

14. Noise monitoring locations for the purposes of the construction phase of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development on site.

Reason: To protect the residential amenities of property in the vicinity.

15. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, an Amphibian Conservation Plan to include the result of a resurvey of the site for amphibian species, particularly the frog at all stages of its lifecycle, and details of measures to protect spawn and tadpoles during the construction phase of the permitted development, if necessary, by their transfer under licence from the National Parks and Wildlife Services to a temporary holding pond.

Reason: To avoid injury to and destruction of amphibian species, particularly the frog protected under the Wildlife Act Acts 1976-2021, during the construction of the permitted development.

16. The developer shall construct and maintain to the Council's standard for taking in charge of all roads, including footpaths, cycleways, verges, public lighting, watermains or drains, public open spaces, forming part of this development, until taken in charge by the planning authority.

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



Chris McGarry

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this  day of  2022.