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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: LRD0019/S3**

**Appeal** by Rondesere Limited care of CWPA Planning and Architecture of Unit 10, North Business Park, Seatown West, North Street, Swords, County Dublin against the decision made on the 16<sup>th</sup> day of February, 2024 by Fingal County Council to refuse a permission to Rondesere Limited for the proposed development.

**Proposed Development:**

1. Demolition of existing, single storey, storage structures on the subject site (circa 446.5 square metres gross floor area).
2. The construction of a residential development (circa 15, 234.11 square metres gross floor area) comprising of 120 number apartment units (15 number studio units, 18 number one-bed units, 78 number two-bed units, seven number three-bed units, two number four-bed penthouse units) within one number block (ranging in height from four to 12 storeys over basement level).
3. The construction of a basement to be accessed off Myrtle Road with provision of circa 47 number car parking spaces, including accessible spaces, electric vehicle charging points and residential visitor parking.

4. Addition of two number crèche drop-off car parking spaces at surface level.
5. Provision of 360 number 'long stay' residential bicycle parking spaces at basement level together with additional 60 number visitor bicycle parking spaces in secure locations at surface level.
6. All apartments are provided with private terraces/balconies.
7. Provision of circa 1,877 square metres of open space to serve the development including green roof garden terraces between fifth and tenth floor level.
8. Provision of a childcare facility at ground floor level (circa 156.6 square metres gross floor area) with capacity in the order of 35 number children and associated secure, open play area (circa 117.1 square metres).
9. Provision of café unit (circa 70 square metres gross floor area) at ground floor level with associated outdoor seating area.
10. Provision of associated gymnasium at ground and first floor level (circa 273.12 square metres).
11. Provision of multipurpose room (circa 48 square metres gross floor area) and residents lounge (circa 20 square metres) at first floor level.
12. Total non-residential use is circa 567.72 square metres (3.73% of overall development).
13. The development will also provide for all associated ancillary site development infrastructure including: ESB sub-station, bike stores, bin stores, plant rooms, public lighting, new watermain connection and foul and surface water drainage, internal roads and footpaths, site landscaping, including boundary treatments, associated scheme signage and all associated site development and excavation works above and below ground necessary to facilitate the development. All on a site at Grange Road, Baldoyle, Dublin.

## **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**

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

- (i) the site's location on lands with a zoning objective for 'RA' and objective provisions in the Fingal County Development Plan 2023 – 2029 in respect of residential development;
- (ii) the nature, scale and design of the proposed development which is consistent with the provisions of the Fingal County Development Plan 2023 – 2029 and appendices contained therein;
- (iii) the "Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities", issued by the Department of Housing, Local Government and Heritage in January 2024;
- (iv) the "Urban Development and Building Height, Guidelines for Planning Authorities", issued by the Department of Housing, Local Government and Heritage in December 2018 (the 'Building Height Guidelines');
- (v) the "Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities", issued by the Department of the Housing, Local Government and Heritage in July 2023;
- (vi) "Housing for All", issued by the Department of Housing, Local Government and Heritage in September 2021;
- (vii) the pattern of existing and permitted development in the area;

- (viii) the submissions and observations received, and
- (ix) the report of the Planning Inspector.

### **Appropriate Assessment - Stage 1**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within an established town centre location and adequately serviced urban site, the Appropriate Assessment Screening Report submitted with the appeal, the Inspector's Report and the submissions on file.

In completing the screening exercise, the Board generally adopted the report of the Inspector. However, the Board noted that the mitigation measures relating to surface water quality did not otherwise appear in the original application and therefore, should be considered in the Stage 2 process. The Board therefore, concluded that, either by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, other than the Baldoyle Bay Special Area of Conservation (Site Code: 000199), the Baldoyle Bay Special Protection Area (Site Code: 004016), and the North Bull Island Special Protection Area (Site Code: 004006), which are the European Sites for which there is potential for significant effects.

## **Appropriate Assessment - Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions including expert submissions received and carried out an appropriate assessment of the implications of the proposed development on the Baldoyle Bay Special Area of Conservation, the Baldoyle Bay Special Protection Area, and the North Bull Island Special Protection Area in view of the sites' conservation objectives. The Board considered that the totality of information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development, both individually and 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, either by itself or in combination with other plans or projects, would not adversely affect the integrity of the European sites in view of the conservation objectives of the sites. This conclusion is based on a complete assessment of

all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

**Environmental Impact Assessment:**

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, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (i) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(i) and(iv), as amended;
- (ii) the location of the site on lands governed by zoning objective 'RA' - Proposed Residential in the Fingal County Development Plan 2022 - 2028, and the results of the strategic environmental assessment of the Development Plan undertaken in accordance with the SEA Directive (2001/42/EC);
- (iii) the existing use on the site and pattern of development in surrounding area;
- (iv) the planning history relating to the site;
- (v) the availability of mains water and wastewater services to serve the proposed development; and
- (vi) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

it is considered that 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 considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height, and quantum of development, and in terms of traffic and pedestrian safety and convenience. The proposed development would, subject to conditions, provide an acceptable form of residential amenity for future occupants.

### **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 and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The following amendments shall be made:
  - (a) Omission of the second-floor level reducing the development to an eleven-storey block and the provision of 104 apartment units;

- (b) Provision of parking spaces on site to facilitate car-sharing;
- (c) The amendment of bicycle parking to provide a portion of long-stay basement parking in the form of Sheffield Stands and the provision of Sheffield stands for short stay bicycle parking at surface level;
- (d) Amendment of the design and dimensions of accessible car parking spaces to accord with the requirements of the planning authority; and
- (e) Amended entrance design to provide for continuation of footpath and cycle path infrastructure across the vehicular entrance using clear demarcation/surface materials as well as continuity of levels with the proposed footpath and cycle path. The entrance layout shall incorporate tactile paving/elements to demarcate the presence of the junction for visually impaired individuals. The design of the vehicular access shall have regard to the recommendation of the Design Manual for Urban Roads and Streets.

Amended plans illustrating the above alterations shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of orderly development, residential amenity and quality of design.

3. The mitigation measures outlined in the Natura Impact Statement shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** To protect the environment.



4. 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.

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

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

6. 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.

7. A minimum of 10% of all car parking spaces should be provided with functioning EV charging stations/ points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be

submitted to, and agreed in writing with, the planning authority prior to the occupation of the development. The car parking spaces for sole use of the car sharing club shall also be provided with functioning EV charging stations/points.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

8. The number of bicycle parking spaces specified (420) shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted with this application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

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

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

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

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

11. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, 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 residential and visual amenity.

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

13. 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 monitor all site investigations and other excavation works, and
  - (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.

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 of any remains that may exist within the site.

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

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

15. Prior to commencement of development, a Resource Waste Management Plan (RWMP), as set out in the EPA's "Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects" (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 interests of reducing waste and encouraging recycling.

16. 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 areas for construction site offices and staff facilities;
  - (c) Details of site security fencing and hoardings;
  - (d) Details of on-site car parking facilities for site workers during the course of construction;
  - (e) 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;
  - (f) Measures to obviate queuing of construction traffic on the adjoining road network;
  - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
  - (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
  - (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
  - (j) 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;

- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;
- (m) 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; and
- (n) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works.

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

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

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

18. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

19. The open spaces shall be developed for, and devoted to, public use. They shall be kept free of any development and shall not be gated.

**Reason:** In order to ensure the development of the public open space areas and their continued use for this purpose.

20. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 of the development.

21. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The developer shall also pay a financial contribution to the planning authority in respect of a shortfall of public open space. 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 for Fingal County Council of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

*Eamonn James Kelly*

**Eamonn James Kelly**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this *3<sup>rd</sup>* day of *July*, 2024.