



An
Bord
Pleanála

Board Direction
BD-000139-18
ABP-300559-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 27/03/2018.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

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

- (a) the site's location close to Dublin city centre, within an established built-up area on lands with zoning objective Z15, which seeks to 'protect and provide for institutional and community uses' in the Dublin City Development Plan 2016-2022;
- (b) the policies set out in the Dublin City Development Plan 2016-2022;
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness; (Government of Ireland, 2016);
- (d) 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 2013;
- (e) The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued in March 2018;

- (g) The Planning System and Flood Risk Management Guidelines, November 2009 (including the associated Technical Appendices);
- (h) the nature, scale and design of the proposed development;
- (i) the availability in the area of a wide range of social, community and transport infrastructure;
- (j) the pattern of existing and permitted development in the area;
- (k) the planning history within the area;
- (l) the submissions and observations received, and
- (m) the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would not seriously injure the residential or visual amenities of the area, would not detract from the character and setting of St. Anne's Park or the nearby protected structure, Sybil Hill House, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board completed an Appropriate Assessment 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 a zoned and serviced urban area, the Natura impact statement submitted with the application, and the Inspector's report and submissions on file. In completing the Appropriate Assessment, the Board adopted the report of the Inspector and concluded that, subject to the implementation of the proposed mitigation measures contained in the Natura impact statement, the proposed development, by itself or in combination with other development in the vicinity, would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives.

Environmental Impact Assessment

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

- (a) the nature, scale and extent of the proposed development;
- (b) the environmental impact assessment report and associated documentation submitted in support of the application;
- (c) the submissions from the planning authority, the observer and the prescribed bodies 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 applicant, identifies and describes adequately 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.

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

- (i) Traffic and transportation impacts, which will be mitigated by preparation of a construction management plan and environmental plan.
- (ii) Land and soils impacts, which will be mitigated by control of soil excavation and export from site, sources of fill and aggregates for the project, fuel and chemical handling, transport and storage and control of water during construction.
- (iii) Water impacts, which will be mitigated by construction management measures

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 and subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and in combination with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

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. Mitigation and monitoring measures outlined in the plans and particulars, including the environmental impact assessment report, submitted with this application as set out in particular but not exclusively in Chapter 14 of the EIAR “Principal Mitigation and Monitoring Measures”, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:

(a) Details regarding the opening hours of the access points between the development site and St. Anne’s Park, which reflect the opening hours of St. Anne’s Park

(b) Details regarding availability/opening hours of the proposed community uses within Block 1 and Block 6 to the wider public

(c) Details of protection and repair measures for the remaining section of the walled garden along the northern site boundary. This wall shall be retained and repaired, where possible and any demolition deemed necessary shall not be undertaken without the prior agreement of the planning authority

(d) Details of the proposed entrances from the street to the communal gardens to the rear of the proposed houses

(e) Details of upper floor terrace screening in the housing elements of the proposal

(f) Details of proposed roof finish to the apartment blocks

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability

4. 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. In particular:

(a) The surface water outfall pipe and headwall details to the Naniken River shall be agreed in writing with the planning authority prior to any works commencing on site. Additional details in relation to the scouring of the river channel or river banks shall be submitted for the written agreement of the planning authority

(b) Development shall not commence until the finalised alignment and details of surface water pipe are agreed in writing with the planning authority. The design and construction of the pipe will minimise impact on existing tree root zones and will include on-site supervision by a qualified Arboriculturist employed by the developer and reporting to the planning authority. Following construction the alignment will be landscaped in accordance with the requirements of the planning authority

(c) Development shall not commence until requirements for demolition and reconstruction of the bridge with the proposed drainage outfall at the Naniken River are agreed with the Planning Authority

Reason: In the interest of public health and to ensure a satisfactory standard of development.

5 The period during which the development hereby permitted may be carried out shall be 5 years from the date of this Order.

Reason: In the interests of proper planning and sustainable development

6 The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

7. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of the following:

(a) Specific trees, the removal of which is authorised in writing by the Planning Authority to facilitate the development

(b) Trees which are agreed in writing by the Planning Authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Reason: In the interests of amenity, ecology and sustainable development

8. Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of condition no 7. There will be no impact on trees within St. Anne's Park without the written agreement of the planning authority.

Reason: In the interests of amenity, ecology and sustainable development

9. A security bond to the value of €100,000 (one hundred thousand euro) shall be lodged with the planning authority, prior to the commencement of development, as security to ensure the appropriate protection and preservation of trees on the development site and St. Anne's Park. The form of the security bond shall be agreed between the planning authority and the developer or, in default of agreement, shall be agreed to An Bord Pleanála for determination.

Reason: In the interest of amenity, ecology and sustainable development.

10. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

11. 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 amenity of property in the vicinity and the visual amenity of the area.

12. Site development and building works shall be carried only out between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 amenities of property in the vicinity.

13. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

(b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;

(c) Pedestrian crossing facilities shall be provided at all junctions within the site;

(d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works, and

(e) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

14. Prior to commencement of development, proposals for an apartment and house numbering scheme and associated signage shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development

15. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

16. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area

17. 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, following demolition, 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 (in situ or by record) of any remains that may exist within the site

18. 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 social and affordable housing in accordance with the requirements of section 96 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 (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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.

19. Prior to commencement of development, a phasing programme for the development shall be submitted to the planning authority for agreement.

Reason: To provide for the orderly development of the site

20. No advertisement or advertisement structure shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the site, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

21. 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.

22. 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 a demolition management plan, together with details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

23. The developer shall pay to the Planning Authority a financial contribution under section 48 of the Planning and Development Act 2000 (as amended) and the Dublin City Development Plan 2016, in lieu of the provision of public open space. This contribution shall be paid prior to commencement of development or in such phase payments as the Planning Authority may facilitate

Reason: For the provision of improvements or enhancement of existing amenities in the local area given the 6.3% shortfall in public open space provision

Decision Quashed

24. 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 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 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.

Note: In deciding not to accept the inspector's recommendation to reduce the maximum height of Block 4 to five storeys, the Board considered that the building height of Block 4 in the context of this specific site location would be acceptable in terms of The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued in March 2018. The reduction of 52 no car spaces was not considered necessary having regard to the decision to allow Block 4 as proposed in the application.

Board Member

Date: 28/03/2018

Paul Hyde