



An
Bord
Pleanála

Board Direction
BD-006332-20
ABP-307092-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/08/2020.

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

Having regard to the following:

- (a) the location of the site on lands with a zoning objective for residential development in the South Dublin County Council 2016-2022,
- (b) the nature, scale and design of the proposed development and those issues relating to the contravention of Site Specific Objectives UC 6 SLO:1 and H7 Objective 4 of the South Dublin County Council 2016-2022,
- (c) the National Planning Framework, Project 2040,
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (e) the Eastern & Midland Regional Assembly RSES 2019-2031;
- (f) the Design Manual for Urban Roads and Streets (DMURS), 2019
- (g) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009

- (h) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018
- (i) Spatial Planning and National Roads Guidelines (DoECLG), 2012
- (j) the nature, scale and design of the proposed development,
- (k) the availability in the area of a wide range of social, community and transport infrastructure,
- (l) the pattern of existing and permitted development in the area,
- (m) the report of the Chief Executive of South Dublin County Council;
- (m) the submissions and observations received, and
- (o) 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 location, would not seriously injure the residential or visual amenity of the area, 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 Screening

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 a zoned and serviced urban site, the Information for Screening for Appropriate Assessment submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, 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, and that a Stage 2 Appropriate Assessment is not, therefore, required

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:

- a) the nature and scale of the proposed development on a site served by public infrastructure,
- b) the absence of any significant environmental sensitivities in the area,
- c) the location of the development outside of any sensitive location specified in article 109(3) 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. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable Development

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, and would not endanger public safety by reason of traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that a grant of permission could materially contravene the South Dublin County Development Plan 2016-2022. The Board considers that, having regard to the provisions of section 37(2)(b) (i), (ii) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Specific Site Objective UC 6 SLO:1 and H7 Objective 4, which relate to a restriction in height of proposed development, would be justified for the following reasons and consideration:

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The proposed development is considered to be of strategic and national importance having regard to: the definition of ‘strategic housing development’ pursuant to section 3 of the *Planning and Development (Housing) and Residential Tenancies Act 2016* (as amended); and support for the National Policy Objectives in the National Planning Framework, in particular Objective 35 which seeks to “*increase density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights*”. In this regard, the brownfield characteristics of the site, the location directly adjoining the Chapelizod Bypass (R148) and the high quality of urban design at an importance interface into Dublin City are considered of particular relevance.

In relation to section 37 (2)(b) (ii) of the Planning and Development Act 2000 (as amended):

It is considered that Specific Site Objective UC 6 SLO:1 and H7 Objective 4 of the South Dublin County Development Plan 2016-2022, which include a blanket height restriction on the subject site are in direct conflict with Policy H13 and Policy H14 of the development plan, which requires compliance with national standards as set out in the Sustainable Urban Housing: Design Standards for New Apartments, and with H8 Objectives 1 and 2 of the County Development Plan which require compliance with Sustainable Residential Development in Urban Areas Guidelines regarding the site specific assessment of heights for sustainable communities.

In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended):

It is considered that permission for the proposed development should be granted having regard to The Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031, which seeks to increase densities on appropriate sites within Dublin City and Suburbs. In relation to Section 28 Guidelines of particular relevance are the Urban Development and Building Height Guidelines (2018) which state that building heights must be generally increased in appropriate urban locations, subject to the criteria as set out in Section 3.2 of the Guidelines. The proposal has been assessed against these criteria. The Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), support

increased densities in appropriate locations and the proposal has been assessed in relation to these.

1.0 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. 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:

Future connectivity into the commercial lands, as per the submitted masterplan, along the north of the site shall be integrated into the internal road layout

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development.

Reason: In the interests of residential amenity and to ensure future connectivity is retained.

3. The proposed cycle access into the site and the basement area shall be designed so as to comply with all necessary standards in the NTA National Cycle Manual.

Details of the layout, marking demarcation and security provisions for the cycle spaces and cycle infrastructure shall be as submitted to An Bord Pleanála 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.

4. The proposed car parking layout shall be modified so that at least 6 no. spaces are provided for persons with impaired mobility. These spaces shall be located as close as possible to the building entrance. The layout, dimensions and markings for these spaces shall be in accordance with the guidance set out in the document “Building for Everyone - a Universal Design Approach” (National Disability Authority). Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure a satisfactory parking provision for the proposed development that is accessible to all users.

5. The applicant shall notify/engage with Weston and Casement Aerodromes to ensure that any crane operations during construction do not adversely impact the safety of operation and the operation of cranes shall be co-ordinated with the Air Corps Air Traffic Services, no later than 30 days before use.

Reason: In the interest of public safety and aviation movement.

6. The development hereby permitted shall be for 250 residential units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (March 2018) and be used

for long term rentals only. No portion of this development shall be used for short term lettings.

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

7. Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the Management Company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

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

8. Prior to expiration of the 15-year period referred to in the covenant, the owner shall be submitted to and agreed in writing with the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

9. Prior to the commencement of development, the owner shall submit to and agreed in writing with the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be let or sold separately for that period.

Reason: In the interests of proper planning and sustainable development of the area

10. Details of all external shopfronts and signage in Block A shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the amenities of the area/visual amenity

11. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The design of the children's play areas shall be submitted for the written approval of the PA and designed in accordance with the relevant standards,

This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

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

12. a) Prior to the commencement of development, the applicant/owners shall lodge the following for the written agreement of the Planning Authority: a bat survey for bat usage carried out across the site and immediately adjoining sites to assess roosting and feeding/ foraging activities and assessing potential impact on the species arising from the proposed development. No building, structure, feature or tree/ hedgerow shall be altered, destroyed or removed prior to this assessment. The survey shall be undertaken by a qualified and experienced bat surveyor carrying professional indemnity insurance during the correct time of the year and under the weather conditions appropriate for the survey of such species. The requirements of the Heritage Officer shall be ascertained in this regard prior to the commencement of development.

If bats are found to be present on the site or immediately adjoining sites no development shall take place until the necessary permission/ derogation licence has been obtained from the National Parks & Wildlife Service.

b) The bat mitigation measures within the Bat Survey prepared by Faith Wilson, Ecologist shall be adhered to at all times during demolitions and construction works.

Reason: To ensure the protection of the natural heritage on the site.

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

Reason: In the interest of public health.

14. 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.

15. Proposals for an estate/street name, house 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 house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

16. Prior to the opening/occupation of the development, a Mobility Management Strategy (including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns) shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. Details may include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The interim or temporary strategy, where applicable, should reflect the requirements of DMURS Interim Advice Note – Covid Pandemic Response (May, 2020). The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.

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. 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

19. 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.

20. 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.

21. 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 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.

22. 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.

Board Member

Date: 26/08/2020

Michelle Fagan