



Board Direction

Ref: PL29N.246430

The submissions on this file and the Inspector's report were considered at a Board meeting held on August 10th 2016.

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 Z15 institutional zoning objective for the area, as set out in the current Dublin City Development Plan and to the pattern of development in the vicinity, to the contents of the masterplan submitted with the application, to the proposals in relation to the future use of the Carmelite Convent (a protected structure), and having regard to policies in the Development Plan to promote sustainable residential densities in appropriate locations, it is considered that, subject to compliance with the conditions set out below, the proposed development would not materially contravene the zoning objective, would constitute an acceptable residential density in this suburban location, would enhance pedestrian permeability in accordance with the principles set out in the Design Manual for Urban Roads and Streets, would not seriously injure the residential amenities of properties in the vicinity, would not detract from the character and setting of the Protected Structure, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. (a) 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 submitted on the 22nd day of February 2016 and by the particulars received by An Bord Pleanála on the 12th day of May, 2016 and 15th day of June 2016,

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.

(b) The site layout shall be as indicated on drawing titled 'Proposed Site Layout Plan Option 1' (drawing number AI-1003-OP1) received by the planning authority on the 22nd day of February 2016, except as may be otherwise required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:-

- (a) Houses nos. 23, 24, 25 and 26, with their curtilages and the roadway (Road no. 3) and parking areas in front of houses nos. 25 and 26 shall be omitted, and the resultant space (with the exception of the strip of land referred to in condition 2(b)) shall be incorporated into the public open space for the proposed development.
- (b) The private open space of house no. 27 shall be increased by the provision of a strip of land, 2 metres in width, along the side of the house, from the rear of the site to the estate road. This area shall be incorporated into the garden of this house.
- (c) All existing trees within the area of land incorporated into the public open space under condition 2 (a) shall be retained.
- (d) All windows serving landings, WCs and bathrooms in the proposed development shall be permanently fitted with opaque glazing.
- (e) All of the proposed timber panel fences bounding the rear gardens of the proposed houses (shown as boundary treatment 1 on drawing number PL-1005, as submitted on the 26th day of November 2015), shall be replaced by concrete block walls, 1.8 metres in height, which shall be rendered and capped.

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: In the interests of protecting the residential amenities of surrounding properties, of providing durable boundary treatment to

rear gardens, and in order to provide an appropriate level of public open space that maintains the open character of these institutional lands to comply with the provision of Dublin City Development Plan.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings, of the proposed apartment blocks and of the proposed nursing home, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour of all dwellings shall be blue-black, black, or dark grey in colour only (including ridge tiles).

Reason: In the interest of visual amenity.

4. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place above roof parapet level of the apartment blocks and nursing home, other than that specifically included in the development description for the proposed development, including any solar panels, 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 visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

5. Proposals for a development / estate name, house and unit 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 signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

6. Site development and building works shall be carried only out between 08.00 hrs and 18.00 hrs Mondays to Fridays excluding bank holidays and between 08.00 hrs and 13.00 hrs on Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of protecting the residential amenities of adjoining properties.

7. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed houses without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed houses.

8. All of the works to the protected structure and all works to the existing associated structures, including works to the walls of the walled garden, the piers to be relocated on site and works to the Grace Park Road boundary wall, shall comply with the requirements of the planning authority for such works and shall be carried out under the professional supervision on-site of an accredited Grade 1 Conservation Architect or expert with specialised conservation expertise, in accordance with the Architectural Heritage Protection Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in 2011.

Reason: In order to ensure that the works to the protected structure are carried out in accordance with best Conservation Practice.

9. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the nursing home building or crèche, or within the site generally, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to allow the planning authority to assess any signage or other structures through the statutory planning process.

10. 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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of clarity, orderly development and amenity.

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Provision shall be made by the developer for electrical connections outside all of the proposed houses and apartments, to facilitate electrical charging of vehicles.

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

12. A 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 for storage of deliveries to the site.

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

13. 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.

14. The internal road network serving the proposed development, the layout and detailed design of the two vehicular entrances off Grace Park Road and of the pedestrian/cyclist accesses serving the

proposed development (including boundary setbacks, turning bays, junctions, parking areas, footpaths, cycle lanes, kerbs, basement car park ramp design, signage and materials to be used), shall comply with the detailed standards of the planning authority for such works.

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

15. Public lighting shall be provided in accordance with a scheme, to include lighting in the public open space and along all pedestrian routes, 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.

16. (a) The landscape scheme accompanying the planning application shall be implemented in full in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. The landscape scheme shall have regard to the planning authority's Guidelines for Open Space Development and Taking in Charge. The developer's Landscape Architect shall certify by letter his/her opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development.

(b) One public playground associated with the main public open space area (as modified by condition 2 (a) of this permission) shall be provided, to details to be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(c) All trees shown shall be retained on the site, together with trees numbers 442, 443, 460, 461, 402, 410, 411 and 412, and those trees which are to be retained under condition 2 (c) of this permission (all of which trees shall also be retained), shall be adequately protected during the period of construction in accordance with BS: 5837. Such measures shall include a protection fence which shall be erected beyond the branch spread, and no construction work or storage shall be carried out within the protective barrier. The tree protection measures shall have regard to the planning authority's Guidelines for Open Space Development and Taking in Charge. A security bond to the value of €80,000 shall be lodged with the planning authority, prior to commencement of development, as

security to ensure the appropriate protection and preservation of the trees referred to in this condition. The form of the security bond 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: In the interests of amenity, ecology and sustainable development.

17. 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 and for the ongoing operation of these facilities 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: In the interests of residential amenity and proper waste management.

18. The areas of public open space shown on the lodged plans, together with the additional public open space required to be provided in compliance with condition 2 (a) of this permission, shall be reserved for such use, and shall be maintained by the developer as such until taken in charge by the local authority.

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

19. Prior to commencement of development, the developer shall delineate on a map those areas which are to be taken in charge, and shall submit this map to the planning authority. The areas to be taken in charge shall include all of the public open space as shown on submitted drawings, together with the additional public open space required to be provided in compliance with condition 2 (a) of this permission, together with all roads and footpaths within the development serving houses, and all pedestrian linkages proposed (including those to Griffith Avenue, Grace Park Road and Beresford Avenue). In relation to those areas not to be taken in charge, a Management Company shall be set up. The Management Company shall provide adequate measures for the future maintenance and repair in a satisfactory manner of private and communal open spaces, and all services associated with the underground car parks,

with the apartments, the dwelling units within the protected structure, and the nursing home, where not otherwise taken in charge by the local authority.

Reason: In the interest of the future maintenance of this development, and in the interests of residential amenity, pedestrian permeability and the provision of public open space.

20. The development shall be carried out on a phased basis, in accordance with a revised phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. The phasing scheme proposed as part of the application (and illustrated on drawing number PL-1004, submitted on the 26th day of November 2015), shall not be carried out, and the revised phasing scheme shall be such that the works for the conservation and conversion of the protected structure shall take place and shall be completed, prior to the construction of apartment Block B and the nursing home, and that the major part of the public open space (as modified by condition 2 (a) of this permission), is laid out and provided prior to the construction of apartment block B and the nursing home.

Reason: To ensure that the development is phased in an appropriate manner which reflects the significance of the protected structure, and to ensure the timely provision of services and public open space.

21. The developer shall comply with the following from the planning authority:
- (a) The developer shall retain a suitably qualified licensed-archaeologist to advise regarding the archaeological implications of site clearance, demolition and/or construction methodology and to make appropriate recommendations for mitigation including detailed survey as necessary.
 - (b) The developer shall allow for the resolution of archaeology (both on the site and necessary post excavation) in the project budget and timetable.
 - (c) The developer's archaeologist shall undertake licensed archaeological monitoring of all demolition and sub-surface works associated with the development including the breaking and removal of any floor slabs, levelling of ground etc.

- (d) The archaeologist shall consult with and forward their Method Statement in advance of any commencement to the City Archaeologist.
- (e) In the event of archaeological features being located in the course of the monitoring, the developer shall facilitate the archaeologist in fully recording such features, including in necessary the archaeological excavation of such features. In the event of significant archaeological features on site, the archaeologist retained by the developer shall immediately contact the City Archaeologist. The City Archaeologist (in consultation with the National Monuments Service, Department of Arts, Heritage and Gaeltacht) shall determine the further archaeological resolution on the site.
- (f) A written and digital report (on compact disc) containing the results of the archaeological monitoring shall be forwarded on completion to the City Archaeologist and National Monuments Service, Department of Arts, Heritage and Gaeltacht.
- (g) Following submission on the final report to the City Archaeologist, where archaeological features material is shown to be present, the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City Archaeological Archive Guidelines (2008 Dublin City Council) and lodged with the Dublin City Library and Archive.

Reason: In the interest of preserving or preserving by record archaeological material likely to be damage or destroyed in the course of development.

22. 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) 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 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 for the area.

23. 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 until taking in charge 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 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.

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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

25. The developer shall pay a financial contribution to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, as amended in respect of the provision, by the local authority, of a right-turning lane at the junction

of Grace Park Road and Griffith Avenue, including all ancillary traffic management facilities, including footpaths, traffic and pedestrian signals and public lighting. This contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

26. The developer shall pay to the planning authority a financial contribution in respect of Metro North Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Note 1: In deciding to grant permission in this case, the Board had regard to the Development Plan provisions in relation to Z15 institutional lands, and was not satisfied that the public open space that had been proposed by the applicant was adequate. It considered that, with the omission of 4 houses and associated parking and roadway, and the incorporation of this area into the proposed public open space, as set out in condition 2 (a), an acceptable level of public open space could be provided to comply with the requirements of the Development Plan. The Board had regard, in this context, to its recent decision under An Bord Pleanála file reference number PL29N.245745, and in particular condition 2 of that

permission, for development on other Z15 zoned lands nearby. The Board also considered that this open space should be taken in charge as public open space, upon completion of the development (Condition 19 refers).

Note 2: The Board concurred with the analysis and conclusion of the Inspector with regard to the issue of public notices, and did not consider it necessary, in the circumstances, to require revised notices in relation to the further information that had been received by the planning authority on the 22nd day of February 2016.

Note 3: The Board noted the content of the report of the Conservation Officer of Dublin City Council, and also the analysis of the Inspector, and was in agreement that those parts of the convent that are proposed to be demolished as part of the development are not significant in terms of the intrinsic character of the protected structure and do not contribute to its special interest. Accordingly, the Board did not consider that it was necessary, in this case, that exceptional circumstances, within the meaning of Section 57 (10) (b) of the 2000 Planning and Development Act, had to be demonstrated.

Note 4: The Board accepted the planning authority's view that a right-turning lane at the junction of Grace Park Road and Griffith Avenue, as indicated in item 12 (b) of the Planning Authority's request for further information of 1st February 2016, and as outlined in the applicant's response of 22nd February 2016, would benefit the proposed development, and concurred with the planning authority that these works should be at the developer's expense. However, the Board noted that the construction of this right-turning lane would have to take place mostly outside the subject site, and therefore did not consider that the planning authority's condition 10, which required details of these works to be provided by the developer, was appropriate. Accordingly, the Board included a special development contribution so as to ensure that the applicant provides the funding for these works, but considered that the actual works should be designed and carried out by the local authority. In this regard, the Board considered that it was for the authority to fulfil the necessary statutory requirements in relation to this work, including the production of detailed drawings and (where appropriate) public consultation and approval procedures.

[Please issue a copy of this Direction with the Board Order]

Board Member: _____
Philip Jones

Date: 12th August 2016