



An
Bord
Pleanála

Board Direction
BD-000125-18
ABP-300555-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on March 22nd 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 policies and objectives in the South Dublin County Council Development Plan 2016-2022;
- (b) the policies and objectives in the Fortunestown Local Area Plan 2012;
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness;
- (d) the Design Manual for Urban Roads and Streets (DMURS),
- (e) The Guidelines for Sustainable Residential Developments in Urban Areas.
- (f) the nature, scale and design of the proposed development and the availability in the area of a wide range of social and transport infrastructure including the Luas Red Line;
- (g) the pattern of existing and permitted development in the area,
- (h) the submissions and observations received and
- (i) the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would provide residential accommodation at a location that would promote sustainable travel patterns, would not lead to a risk of flooding, would be acceptable in terms of pedestrian and traffic safety, and would not seriously injure the residential or visual amenities of the area or of property in the vicinity. 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 area, the Screening Report for Appropriate Assessment submitted with the application, and 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

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:

- Increased surface water run-off and flooding which will be mitigated by the construction of the linear flood conveyance channel to the south of the site and a sustainable drainage system for surface water attenuation and storage.
- Impacts predicted at both AM and PM peaks on the local junctions and in particular the Fortunestown Lane/Link Road junction which will be mitigated by the compilation of a mobility management plan, key infrastructure upgrades at junctions in the vicinity and the completion of the Citywest Avenue corridor.

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

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:-
 - (a) Duplex Units A-01 and A-02 in Block A shall be omitted from the development. The space thus created shall be used for the construction of a two or three storied building, containing a crèche with community floorspace above, which shall be the subject of a separate planning application. The area of open space proposed to the east of this area may be used for vehicular access to the crèche and/or play space to serve the crèche. The combined crèche and community facility shall be constructed as part of phase 2 of the overall residential development authorised by this permission (as modified by condition 4 of this order), and shall be made available for use prior to the commencement of construction of phase 3 of the residential development. Details of management arrangements for the operation of the community floorspace shall be included in the planning application for the combined crèche/community development.

- (b) All rear gardens shall be bounded with concrete block walls, which shall be a minimum of 1.8 metres high, and shall be suitably capped and rendered on both sides, except where bounding public open spaces or roads, when the walls shall be 2 metres in height. The proposed Type 2 boundary treatment, using timber fences, or any other form of timber fencing, shall not be used for any rear garden boundaries.

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 order to comply with national childcare policy, to comply with the provisions of the Local Area Plan and in order to ensure the provision of durable boundary treatment in the interest of residential amenity.

- 3. The proposed development shall be modified as follows with regard to pedestrian/cycle and roads requirements:
 - (a) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii.
 - (b) Prior to commencement of development, the detailed design including signal timings of the signalised junction to the south east of the site shall be submitted to and agreed in writing with the planning authority and shall include such requirements as considered necessary by the planning authority to operationally link the junction to other signalised junctions in the vicinity of the site.
 - (c) The proposed pedestrian and cycle network shall be revised to comply with the requirements of the National Cycle Manual and a revised site layout plan in this regard shall be submitted to, and

agreed in writing with, the planning authority prior to commencement of development.

- (d) No road gradients shall be less than 1:180.
- (e) A turning head shall be provided at the top of the main north south spine road until such time as connection to Bianconi Avenue is provided.
- (f) The junction to the west of the site adjacent to Blocks D/J/K shall include a table ramp and shall be provided with suitable stopping signage on all arms.
- (g) Turning heads to the west of Blocks K, R & T shall not conflict with the shared pedestrian/cycle track to the west of the site.
- (h) A swept path analysis is required at locations where there is perpendicular parking on home zones with roads of 5 metres and feeder streets of 5.5 metres width.
- (i) Proposals to upgrade the Fortunestown Lane/Garters Lane junction to include a new turn flare from Garters Lane onto Fortunestown Lane on the junction's southern arm shall be agreed in writing with the planning authority prior to commencement of development.
- (j) A Stage 2 Road Safety Audit shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (k) A Mobility Management Plan shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (l) All residential parking spaces shall be so constructed so as to be capable of accommodating future electric vehicle charging points, to details to be agreed in writing with the planning authority.
- (m) The location and treatment of the road surface and pedestrian facilities to the south of the junction between Garters Lane and the northern entrance of the site shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interests of pedestrian, cyclist and traffic safety.

4. The proposed phasing programme submitted with the application shall be amended so that the District Park, including surface water attenuation features, together with suitable safe and well-lit pedestrian links provided for residents of the first phase of the development to the Park, and so that the temporary local square/plaza leading from the site to the LUAS Stop, are both provided as part of the first phase of the overall residential development. These elements of the development shall be completed before any of the houses or duplex units in the first phase are made available by the developer for occupation. Pocket parks and neighbourhood parks in subsequent phases shall be completed before any of the houses or duplex units are made available by the developer for occupation in such phases.

Reason: To provide for the orderly and sustainable development of the site and compliance with the provisions of the County Development Plan and Local Area Plan.

5. 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 or duplex units 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 dwellings, and to allow the planning authority to assess the implications of any such development on residential amenity through the statutory planning process.

6. The site shall be landscaped in accordance with the landscaping masterplan drawings submitted with the application. This shall include

the retention of hedging along the Garter Lane boundary of the site, together with supplementary tree planting, except where sightlines are required for the two vehicular entrances onto Garter Lane. No new footpath and cycle track shall be created outside the existing eastern boundary of the site along Garter Lane, and the proposed shared pedestrian/cycle track inside this landscaped boundary shall be provided. The developer shall retain the services of a suitably qualified Landscape Architect throughout the duration of the site development works. The developer's Landscape Architect shall certify to the planning authority 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 hereby permitted.

Reason: In the interest of residential and visual amenity.

7. The development, including all roads, footpaths, cycle paths, verges, public lighting, open spaces, surface water drains, attenuation infrastructure and all other services, as permitted under this order, and as amended by the conditions of this permission, shall be carried out and completed in accordance with the "taking-in-charge" standards of the planning authority. The entire development, including all open spaces and the District Park, shall be maintained by the developer until such time as it is taken in charge by the planning authority and shall not be operated or maintained by a private management company.

Reason: In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the development, when completed, can be taken in charge by the planning authority.

8. The areas of open space shown on the lodged plans, including the District Park, shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscaping

masterplan submitted with the application, and in accordance with the detailed requirements of the planning authority. These areas shall be maintained as public open space by the developer until taken in charge by the local authority. When the estate is taken in charge, these open spaces shall be vested in the planning authority, at no cost to the authority, as public open space.

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

9. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, and pedestrian lighting for the full extent of the temporary local square/plaza which links the proposed development to the LUAS Stop, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available by the developer for occupation of any house / unit within the relevant phase, and the lighting for the temporary local square/plaza shall be provided before the making available by the developer for occupation of any houses/units in the first phase of the development.

Reason: In the interest of amenity and public safety.

10. Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and house / unit 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 interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

11. 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. Roof colour shall be blue-black or slate grey, including ridge tiles.

Reason: In the interest of the visual amenities of the area.

12. The construction of the proposed development shall comply with TII's Code of Engineering Practice for works, on, near, or adjacent the Luas Light Rail system.

Reason: In the interest of public safety and to prevent obstruction or interference with the operation of the LUAS system.

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. 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 interest of visual and residential amenity, and of sustainable development.

15. Mitigation and monitoring measures, outlined in the environmental impact assessment report submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

17. 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. No plant compounds, material storage areas or site offices shall be located on the open space areas. Provision shall be made in this Construction Management Plan to comply with the requirements of the Air Corps Air Traffic Services, including the positioning and heights of any construction cranes.

Reason: In the interests of public safety and residential amenity, and to ensure that construction works do not affect the safety, efficiency and regularity of Air Corps operations.

18. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

19. 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.

20. Site development and building works shall be carried out only between 0800 to 1900 hours 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.

21. 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 and parking for construction workers during the construction phase, and arrangements for delivery of abnormal loads to the site.

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

22. 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 and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance 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 by the developer of the development until taken in charge.

23. 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.

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 1: In reaching its decision, the Board concurred with the Inspector about the need to retain the Garter Lane frontage of the site, as proposed in the submitted landscape plans, and did not agree with the view of the Planning Authority's Roads Section that the existing hedgerow should be removed in its entirety and a new shared pedestrian/cycle track should be provided along Garter Lane.

Note 2: The Board agreed with the Planning Authority that a crèche and community floorspace should be provided as part of the development, having regard to the overall scale of the proposed residential development and also having regard to the scale of any future development closer to the LUAS stop, which may itself require its own crèche/community floorspace. However, the Board considered that the condition recommended by the Authority (recommended condition number 2) was

insufficiently precise to allow this to be achieved and therefore opted to specify the location of such a facility, close to the entrance to the permitted schools and the entry to the overall development, and considered it appropriate that this be the subject of a separate planning application.

Note 3: The Board concurred with the Planning Authority regarding the need to revise the proposed phasing of the development, to include the District Park within the first phase. However, the Board noted that the taking in charge proposals by the developer did not include provision for the taking in charge of this District Park, and considered that, in accordance with national policy, the entire development should be taken in charge, and noted that the District Park was identified in the Local Area Plan as a public open space to serve the wider neighbourhood, and therefore should be taken in charge as part of the normal taking in charge process, and thereafter should be owned and managed as public open space by the Planning Authority.

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

Board Member

Date: 22nd March 2018

Philip Jones