



An
Bord
Pleanála

Board Direction
BD-000846-18
ABP-301522-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 02/08/2018.

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 location of the subject site in an established suburban area within the corridor served by the Luas Green Line on land zoned for residential development under the Dún Laoghaire-Rathdown Development Plan 2016-2022;
- (b) the Rebuilding Ireland Action Plan For Housing and Homelessness 2016;
- (c) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, issued by the Department of the Environment, Heritage and Local Government in May 2009, and the accompanying Urban Design Manual;
- (d) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March 2018;
- (e) the Design Manual for Urban Roads and Streets issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;

- (f) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (g) the nature, scale and design of the proposed development;
- (h) the pattern of existing and permitted development in the area,
- (i) the submissions and observations received, and
- (j) the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would include adequate measures for the attenuation and drainage of storm water runoff and not give rise to an undue risk of flooding on the site or other lands, would not injure the amenities of the area or of property in the vicinity, would respect the character of the area and achieve an acceptable standard of urban design, would provide a reasonable standard of amenity for its occupants, and would be acceptable in terms of the safety and convenience of traffic and pedestrians. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The proposed development is not directly connected with or necessary for the management of a European site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on those European sites in view of the sites' conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Dalkey Islands Special Protection Area (site code 004172) or the Rockabill to Dalkey Island Special Area of Conservation (site code 003000), or any other 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 observers 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:

- Potential negative effects on the cultural heritage of the area which will be mitigated by a conservation plan detailing the proposals for the preservation in situ of the Pale boundary. Any excavation work will be carried out in consultation with and under the relevant licence/consent of the Department of Culture, Heritage and the Gaeltacht. A full topographical survey of the field boundary will be undertaken at the site of the proposed Link Road Bridge crossing. The National Monuments Service will advise on whether preservation in situ or preservation by record is the most suitable means of mitigation.

- Loss of habitat which will be mitigated by new planting incorporated into the landscape design for the proposed development to provide replacement habitat of benefit to the bats and birds using the site. A Habitat Management Plan is included in Appendix 5.1 of the environmental impact assessment report.
- Potential effects on the aquatic environment which will be mitigated by the Fisheries Protection/Construction Method Statement included in Appendix 5.1 of the environmental impact assessment report. Ballyogan Stream and tributaries and the storm water systems will be protected from ingress of silt, debris, and deleterious material during all phases of construction. A detailed method statement will be prepared prior to works commencing on the Link Road Bridge to mitigate the risk of contaminating the watercourse and to mitigate against any temporary reduction in the flood plain storage.
- Potential effects on landscape and visual impact will be mitigated by tree and hedgerow protection measures for all such features to be retained.
- Potential effects arising from noise and vibration during construction which will be mitigated by a Construction Management Plan (including traffic management).
- Potential effects on air quality during construction which will be mitigated by appropriate dust management measures including a monitoring programme.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to storm water runoff and the drainage of foul effluent to the city's foul sewerage system, and which will be mitigated during construction by appropriate management measures.

The proposed development is not likely to have significant adverse effects on human health, biodiversity or soil.

The likely significant environmental effects arising as a consequence of the proposed development have therefore been satisfactorily identified, described and assessed.

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 as set out in Chapter 14 “Summary of Mitigation and Monitoring Measures” and Appendix 5.1 of the environmental impact assessment report 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.

Conclusions on Proper Planning and Sustainable Development:

It is considered that, subject to compliance with the conditions set out:

- (a) The proposed development is acceptable in principle with regard to national and local planning policy. The provision of 355 number houses and 572 number apartments will contribute to the delivery of national housing targets set out in the ‘Rebuilding Ireland Action Plan for Housing and Homelessness’ and the core strategy and housing strategy of the Dún Laoghaire Rathdown County Development Plan 2016-2022.
- (b) The design and layout of the scheme are generally satisfactory and in accordance with development plan policy and with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities. The proposed development will not have any significant adverse impact on the residential amenities of adjacent properties.
- (c) The proposed roads and parking arrangements are generally compliant with the standards of the Design Manual for Urban Roads and Streets and the Dún Laoghaire-Rathdown Development Plan.

The Board concluded that the proposed development would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The appropriate period of this permission shall be 10 years from the date of this order. The development shall be carried out within this period in accordance with the phasing plan submitted with the application with the exception that the full length of the Ballyogan Loop Road shall be constructed as part of the first phase of the development (including that portion of the Loop Road to the South and South West of houses 346 - 307. The phasing plan shall be co-ordinated with the completion of the residential development on the neighbouring land to the north of the site authorised under PL06D. 246601, Reg. Ref. D15A/0247. No development shall commence on the first phase of the development authorised by this permission until the planning authority has certified in writing that the development on the neighbouring land has been completed to a satisfactory extent. Prior to the commencement of development, proposals for its extension over any adjoining lands which are under the control of the developer shall be submitted to, and agreed in writing with, the planning authority. No development shall commence on any subsequent phase of the development authorised by this permission until the planning authority has certified in writing that the works in the previous phase have been completed to a satisfactory extent.

Reason: To ensure the orderly development of the site and the timely provision of supporting infrastructure

3. The mitigation and monitoring measures set out in Chapter 14 “Summary of Mitigation and Monitoring Measures” and Appendix 5.1 of 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: To protect the environment.

4. The proposed streets within the authorised development shall be amended as follows-
 - a) The cycle tracks along the proposed Loop Road shall be omitted and replaced with cycle lanes adjacent to the carriageway that maintain the priority of cyclists on the loop road over traffic entering from side roads. A cycle link shall also be provided from the loop road to the estate road no. 6. The revised facilities shall be designed in accordance with section 4.3.2 of the National Cycle Manual issued by the NTA.
 - b) Courtesy crossings with suitable vertical deflection and a change in surface material shall be provided across minor roads where they join the loop road and crossings shall be provided across the loop road as either courtesy or zebra crossings. The crossings shall be designed in accordance with section 4.3.2 of DMURS. Footpaths shall be extended across the entrances to the basement car parks and the entrances to home zone (shared surface) streets on raised tables..
 - c) Street trees shall be planted along the loop road in accordance with the advice given at section 4.2.2 of DMURS.
 - d) The width of the carriageway along the proposed access roads (which are the roads other than the loop road and the streets where shared surfaces are proposed) shall be reduced to between 5m and 5.5m with the resulting area incorporated into the footpath or the curtilage of the adjoining houses, to enable cars to manoeuvre into the parallel parking spaces as illustrated in figure 4.82 of DMURS.

Revised plans showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development in the relevant phase.

Reason: To provide safe and convenient facilities for pedestrians and cyclists in accordance with the applicable guidelines.

5. Prior to the commencement of development, the developer shall submit revised drawings to the planning authority confirming the provision of private amenity space for the two-bedroom apartments beside the plant room at basement level in Blocks W01, W03, W05, E06A and E07A, and showing the access to the bin store and bicycle store in Blocks W02 and E-09B

Reason: To ensure a proper level of amenity is provided for the residents of the apartments.

6. The materials, colours and finishes of the buildings within the development and the landscaping of the site shall be in accordance with the details submitted with the application, unless variations are required to comply with the conditions of this permission or the prior written agreement of the planning authority has been obtained for minor departures from the submitted details.

Reason: In the interests of visual and residential amenity

7. Prior to the commencement of development proposals to facilitate pedestrian and cycle links to the adjoining developments at Cruagh Wood and Stepside Park, as well as a temporary pedestrian and cycle link to the lands to the north-west of the site pending the completion of the loop road to Ballyogan. Shall be submitted to, and agreed in writing with, the planning authority. The agreed links shall be provided as part of the appropriate phases of development under condition 2 of this permission.

Reason: To provide improved permeability and better access for pedestrian and cyclists in the area.

8. At least one car parking space shall be allocated to each residential unit in the authorised development. Car parking spaces shall be sold off in conjunction with the units and shall not be sold or let separately from the authorised residential units, childcare facility or retail units to avoid non-take-up by residents. Prior to the commencement of development, the applicant shall submit a layout plan for the written agreement of the planning authority showing which parking spaces are allocated to individual numbered units and to visitor parking.

Reason: To facilitate the occupants of the authorised development.

9. Prior to the commencement of development revised proposals shall be submitted to, and agreed in writing with, the planning authority providing for the following –
 - 1) Details of the proposed links to Jamestown Park including paths and gates that shall allow access for pedestrians and cyclists;
 - 2) Routes through the open spaces for pedestrians and cyclists that are a minimum of 3m in width;
 - 3) Additional planting to the rear of housing units nos. 01 to 15 and along the western interface of Block E01;
 - 4) Additional planting of street trees with details of planting using structural soils and specialised tree pit construction with realignment of underground services where necessary;
 - 5) The replacement of the concrete post and timber panels for boundary type D01 with concrete post and concrete panel or concrete block walls rendered on both sides and capped

Reason: In the interests of visual and residential amenity and durable boundary treatment.

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 placenames for new residential areas.

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

12. 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 this regard, the main sewers, water mains and public lighting conduits shall be located under roads/footpaths as far as practically possible, and not through private areas.

Reason: In the interests of public health

13. Prior to the commencement of development, the developer shall submit a wayleave agreement in favour of Dun Laoghaire-Rathdown County Council for the 1200mm diameter surface water culvert traversing the applicant's lands in accordance with the details and location shown in Inset B, DBFL Drawing No. 163056-3101 Rev. C. The wayleave agreement shall be in place prior to the making available for occupation of any of the proposed development.

Reason: In the interest of public health

14. 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, with the exception of the communal areas directly associated with the apartment blocks, the childcare facility and the retail units, 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. The communal areas directly associated with the apartment blocks, childcare facility and retail units shall be maintained by a private management company, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the making available by the developer of these parts of the development for occupation. The full extent of the Clay Farm Loop Road within the applicant’s ownership/control shall be taken in charge at an earlier stage prior to the remainder of the scheme. No structures shall be put in place on the Lop Distributor Road restricting access without the written agreement of the Planning Authority

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

15. The areas of open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. 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. When the estate is taken in charge, the 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.

16. PA condition 52 or model condition (de-exemption of extensions in rear gardens)

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:
 - (a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during the course of construction and the prohibition of parking on neighbouring residential streets;
 - (b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; No construction access shall be taken through Cruagh Wood
 - (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (e) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
 - (f) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such

complaints and its response to them, which may also be inspected by the planning authority.

Reason: In the interest of amenities, public health and safety

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. 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

20. Add standard recycle waste condition.
21. 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.

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 local authority 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 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 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 the extension of Luas Line B1 – Sandyford to Cherrywood 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, 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

25. 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: 02/08/2018

Paul Hyde