



An
Bord
Pleanála

Board Direction
BD-001751-18
ABP-302398-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on November 26th 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.

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.

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 2016;
- (d) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- (e) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (f) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (g) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;
- (h) the Guidelines for Planning Authorities on Flood Risk Management issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (i) 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;
- (j) the pattern of existing and permitted development in the area,
- (k) the submissions and observations received and
- (l) 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.

The Board noted that the planning authority had recommended that the development should be refused, on the basis that it represented a material contravention of certain provisions of the Fortunestown Local Area Plan. However, the Board decided that, pursuant to Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016 and to Section 37(2)(b) of the Planning and Development Act, 2000, as amended, it was appropriate to grant permission in this case, notwithstanding this recommendation, as the Board considered that permission for the development should be granted, in accordance with Section 37(2)(b)(iii) of the Planning and Development Act, 2000, as amended, having regard to Guidelines issued under Section 28, and relevant policies of the Minister and of the Government, and in particular objectives 11, 13, 27 and 35 of the National Planning Framework, section 5.8 of the Guidelines for Planning Authorities on Sustainable Urban Residential Development and section 2.4 of the Sustainable Urban Housing: Design Standards for New Apartments.

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, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity

2. The proposed development shall be amended as follows:

- a. The floor to ceiling heights of the ground floors of Apartment Blocks A2 and A3 and of Apartment Blocks B2 and B3 shall be increased to 3 metres throughout.
- b. All rear gardens of houses shall be bounded with brick or concrete block walls, which shall be a minimum of 1.8 metres high, except where bounding public open spaces or roads, when the walls shall be 2 metres in height, or by concrete post and concrete panel fences, 1.8 metres high. The proposed boundary treatment, using timber panel 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 provide increased daylight levels to the apartments, and to ensure the provision of durable boundary treatment in the interest of residential amenity.

3. 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. In the case of the apartments, the external walls shall have finishes that are mainly of brick. In the case of the houses and duplex blocks, the roof colour shall be blue-black or slate grey, including ridge tiles.

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

4. The development shall be carried out in accordance with a phasing programme that incorporates the following changes to that submitted with the application:-

- (a) Phase 1 of the development shall include the completion of the Citywest Avenue extension (and its footpaths and cyclepaths) for the full extent of the site. This road shall be completed and open to traffic prior to the making available by the developer for occupation of any residential unit within the development. There shall be no ransom strips whatsoever on any part of this road or its links to adjoining sites.
- (b) Phase 1 of the development shall include a pedestrian/cycle link to the Fortunestown LUAS stop, which shall utilise the road and footpaths proposed to serve Apartment Block C and Duplex Blocks A1, A2 and A3 (units 130 – 161). Apartment Block C and Duplex Blocks A1, A2 and A3 shall be completed in tandem with this link, so as to ensure the safety and security of the link. The link shall be open to residents at the time of the making available by the developer for occupation of any of the units south/south-east of the Citywest Avenue extension.
- (c) Houses 162 to 179 shall be in Phase 2 of the development, or may be included in Phase 1 only when Duplex Blocks A1, A2 and A3 are completed and made available by the developer for occupation.

Reason: To ensure the timely provision of necessary pedestrian and vehicular facilities for the benefit of the occupants of the proposed dwellings, and to ensure that the phasing provides for pedestrian permeability to local services and public transport in a timely and secure fashion.

5. The proposed development shall make provision for the charging of electrical vehicles. In the case of surface car parking spaces, the developer shall provide electric charging facilities for 10% of such spaces, including at least one visitor electric charging point. In the case of the basement car park, all of the parking spaces shall be provided with electrical connections, to allow for the provision of future charging points. Details of how it is proposed to comply with these requirements, including details of the design of, and signage for, the electrical charging points, and provision for the operation and maintenance of the

charging points (where they are not to be in areas to be taken in charge under condition number 15 of this order) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

6. The site shall be landscaped in accordance with the landscaping drawings submitted with the application, with the exception that all prunus species shall be replaced by other species. 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. 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 access 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 access to the LUAS stop 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.

8. The developer shall consult with the Transport Infrastructure Ireland prior to the commencement of development and shall comply with its requirements to

safeguard the physical integrity and the operation of the adjacent light railway during the carrying out of the development in accordance with Guideline RSC-G-010A issued by the Railway Safety Commission.

Reason: In the interest of public safety.

9. Prior the commencement of development the developer shall consult the Transport Infrastructure Ireland and shall comply with its requirements and specifications regarding the provision of access to the LUAS stop at Fortunestown.

Reason: To protect the operation of the tramway and to ensure a consistent standard of works along it.

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. 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.

13. Each proposed residential unit shall be used and occupied as a single dwelling unit for residential purposes and shall not be sub-divided or used for any commercial purpose (including short-term letting) without a separate planning permission.

Reason: In the interest of clarity and to ensure the maintenance of a residential community.

14. 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. Prior to commencement of development, final details of attenuation, including calculations, shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of public health and to prevent flooding.

15. (a) 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 areas to be taken in charge, upon completion of the development, shall be in accordance with the areas shown on drawing number 16023/PL50, subject to the amendment that the following additional areas are to be taken in charge (rather than being under control of a private management company):-

1. the area of open space to the north of plot number 179, between it and Citywest Avenue extension (which area shall be included as public open space);
2. The full extent and width of the landscaped strip along the northern boundary of the LUAS line (which area shall be included as public open space);
3. The full width and length of footpath connecting the development to the Fortunestown LUAS stop, in so far as that footpath lies within the site of the proposed development;

(b) The areas not to be taken in charge, as defined by this condition, shall be maintained by a properly constituted private management company, details of which shall be agreed in writing with the planning authority prior to the making available by the developer for occupation of any of the apartments or duplex units.

(c) All of the areas of public open space, as modified by this condition, shall be maintained by the developer until such time as the development is 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 define those areas to be taken in charge, and those areas to be maintained by a private management company, in the interests of the amenities of the future occupants of the proposed development, and to comply

with national policy in relation to the maintenance and management of residential estates.

16. 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 Irish Aviation Authority, including the positioning and heights of any construction cranes, and for coordination in the operation of the cranes with the Air Corps Air Traffic Services.

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.

17. Site development and building works shall be carried out only between the hours of 0700 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.

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. 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 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.

21. 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

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: 28th November 2018

Philip Jones