



An
Bord
Pleanála

Board Direction
BD-002558-19
ABP-303133-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/03/2019.

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 Dublin City Development Plan 2016-2022;
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (c) 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;
- (d) 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;
- (e) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;
- (f) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;

- (g) the Planning System and Flood Risk Management Guidelines (including the associated Technical Appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (h) the Architectural Heritage Protection, Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government in February 2005;
- (i) the site's location close to Dublin City centre, within an established built-up area on lands with zoning objective Z15, which seeks to 'protect and provide for institutional and community uses' in the Dublin City Development Plan;
- (j) the nature, scale and design of the proposed development;
- (k) the availability in the area of a wide range of social community and transport infrastructure,
- (l) the pattern of existing and permitted development in the area,
- (m) the submissions and observations received and
- (n) the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would not seriously injure the residential or visual amenity of the area, would not detract from the character and setting of the Gate Lodge protected structure or other nearby protected structures, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Screening Report for Appropriate Assessment submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in

the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

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 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. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:
 - (a) Revised site layout plan which clearly shows the proposed main access roadway continuing right up to eastern boundary of the site, together with the roadway between Block G and the public open space continuing right up to the northern boundary of the site. This may result in the reduction of a small number of car parking spaces.
 - (b) Details of privacy screens, which shall be provided between balconies.
 - (c) Details relating to positioning of solar panels.

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability.

3. 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 and to ensure a satisfactory standard of development.

4. The period during which the proposed development hereby permitted may be carried out shall be 5 years from the date of this Order.

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

5. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements,. In particular:
 - (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
 - (b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii.
 - (c) Pedestrian crossing facilities shall be provided at all junctions.
 - (d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
 - (e) 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, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.
 - (f) All car parking spaces shall be provided with electrical connections to facilitate electrical vehicle charging points and at least one space per ten

residential units shall have a functional Electric Vehicle Charging Point.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

6. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified landscape architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

7. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of the following:
 - (a) Specific trees, the removal of which is authorised in writing by the planning authority, to facilitate the development.
 - (b) Trees, which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, and following submission of a qualified tree surgeon's report, which shall be replaced with agreed specimens.
 - (c) Retained trees and hedgerows shall be protected from damage during construction works.

Reason: In the interests of amenity, ecology and sustainable development.

8. Where the public open space is not taken in charge, the proposed open spaces shall operate as public parks in perpetuity, with public access and use operated strictly in accordance with the management regime, rules and regulations including any byelaws of the planning authority at all times.

Reason: In the interest of residential amenity and to secure the integrity of the proposed development including the public park.

9. 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.

Reason: In the interest of visual amenity.

10. Notwithstanding the provisions of the Planning and Development Regulations 2001, as amended, no additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area, and to allow the Planning Authority to assess the impact of any such development through the statutory planning process.

11. Site development and building works shall be carried only out between 08.00 to 19.00 hours Mondays to Fridays inclusive, between 08.00 to 14.00 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 amenities of property in the vicinity.

12. Prior to commencement of development, proposals for an apartment numbering scheme and associated signage shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development.

13. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company which shall be responsible for the maintenance of all communal open space and public open space, as required by condition of this permission. Membership of this company shall be compulsory for all purchasers of apartments in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

- 14 All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

15 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 carry out site testing and 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 (in situ or by record) of any remains that may exist within the site.

16 Prior to commencement of development, the developer 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 social and affordable housing in accordance with the requirements of section 96 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 (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 of the area.

17 A plan containing details for the management of waste within the proposed 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.

18 A final site specific detailed Construction and Environmental Management Plan (CEMP) shall be submitted, for the written agreement of the planning authority at least five weeks in advance of site clearance and site works commencing.

Reason: To protect the environment during the construction phase and also to avoid impacts on water quality, fisheries, sustainable drainage and flooding

19 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 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 the Board for determination.

Reason: To ensure the satisfactory completion of the development.

20 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: Re Section 37(2)(b) of the Planning and Development Act 2000. The Board noted that the height of the Block exceeds the provisions of the Dublin City Development Plan but decided, having regard to the Ministerial Guidelines under Section 28, and in particular the Urban Design and Building Height Guidelines for Planning Authorities 2018, the Board considered that in granting permission in this case, the Board was entitled to do so under Section 37 (2)(b)ii.

Comment [PH1]:

Board Member

Date: 12/03/2019

Paul Hyde