



An
Bord
Pleanála

Board Direction
BD-003447-19
ABP-304068-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 02/07/2019.

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 site's location close to the established settlement of Foxrock village
- (b) the policies and objectives set out in the Dun Laoghaire Rathdown County Development Plan 2016,
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (d) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (e) the Design Manual for Urban Roads and Streets (DMURS), 2013
- (f) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009

- (g) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018
- (h) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a wide range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) the planning history within the area,
- (m) the submissions and observations received, and
- (n) the report of the Inspector

The Board 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 of the area, 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.

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 development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (March 2018) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

Reason: In the interest of the proper planning and sustainable development of the area and in the interests of clarity.

3. Prior to the commencement of development, the owner shall submit, for the written consent of the Planning Authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of fifteen years shall be from the date of occupation of the first apartments within the scheme.

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

4. Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity

5. 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:
- (I) Privacy screens on the side of balconies of on north-western and south-eastern elevations
 - (II) Full details of proposed green roofs
 - (III) Written agreement outlining that members of the public will have free and unrestricted access at all times to the pedestrian and cycle link which connects Granville Road with the N11
 - (IV) Revised site layout plan which clearly shows the access roadways and all paths continuing right up to red line boundary of the site, so as to avoid the creation of 'ransom strips'.

Reason: In the interests of proper planning and sustainable development and to safeguard the amenities of the area

6. 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.

7. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. 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) 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,

(d) 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

(e) All parking spaces shall have a functional Electric Vehicle Charging Point

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

- 8 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 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

9. 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, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

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

10 Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species

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

11 Mitigation and monitoring measures relating to biodiversity outlined in the plans and particulars, including the ecological impact assessment and Construction and Demolition Waste Management Plan submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission. In this regard:

(a) The applicant shall make available a single document of the mitigation measures/recommendations relating to biodiversity that are outlined in the various documents that form part of the application, for the written agreement of the planning authority. This document shall include a programme for the implementation of the mitigation measures including any monitoring requirements by a suitably qualified ecologist shall accompany this document for written agreement at least 5 weeks in advance of site clearance works

(b) The applicant shall appoint and retain the services of a qualified ecological consultant for the duration of the development. The consultant shall ensure

that the mitigation measures recommended are implemented in full. In particular, the consultant shall supervise the erection of bird nest boxes at secluded/unlit retained trees

- (c) Vegetation clearance and tree removal shall take place outside the bird breeding season (March 1st- August 31st)
- (d) All buildings proposed for demolition and all mature trees proposed for felling shall be examined for evidence of bats, prior to any works by a bat specialist, including an examination of internal roof features. If required, an NPWS derogation licence shall be obtained
- (e) The applicant shall appoint a bat ecologist to carry out a bat survey, during the appropriate period, prior to commencement of development on site, to revise the assessment of potential impacts in the Ecological Impact Assessment Report and to determine if a derogation licence for bats would be required. The bat survey shall include a range of trees and buildings by several surveyors on several nights. The bat ecologist shall also review the engineer's lighting plan for the development and make such recommendations for adjustments to the plan as necessary to mitigate light spill on feeding bat habitats
- (f) After installation of the external lighting, a report shall be submitted, prepared by the bat specialist, for the written satisfaction of the planning authority, confirming that it is operating according to specification
- (g) If required, the applicant shall commission and implement a Japanese Knotweed Control/Eradication Plan, prior to the commencement of development for the written agreement of the planning authority

Reason: In the interest of protecting the environment and to address any potential impacts on biodiversity

- 12 Details of the materials, colours and textures of all the external finishes, including pavement and link finishes shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 13 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.

- 14 Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

- 15 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.

16 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, following demolition, 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

17 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 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.

18 Prior to commencement of development, a phasing programme for the development shall be submitted to the planning authority for agreement.

Reason: To provide for the orderly development of the site

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.

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 A Final Site Specific detailed Construction and Environmental Management Plan (CEMP) shall be submitted, for the written agreement of the planning authority at least 5 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

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, 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.

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

- 22 Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport

- 23 Prior to commencement of development on site, the developer shall submit, for the written agreement of the Planning Authority, details of the Management Company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-rent scheme will operate.

Reason: In the interests of orderly development and the proper planning and sustainable development of the area

- 24 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 the Board for determination.

Reason: To ensure the satisfactory completion of the development.

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

Note: The Board had regard to the recommendation of the inspector however considered that having regard to the separation distances involved to adjoining properties that the omission of units 119 and 124 was not necessary and furthermore considered that high level window and screening was also unnecessary. The Board also considered that having regard to the high level of amenities proposed that a laundry would not be necessary in this instance.

Board Member

Date: 02/07/2019

Paul Hyde