



An
Bord
Pleanála

Board Direction
BD-003675-19
ABP-304346-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 31/7/2019.

The Board decided to grant permission, 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;

- (a) the site's location within the built-up area of Dublin in proximity to a range of services and facilities including the bus corridor along the Malahide Road;
- (b) the provisions of the Dublin City Development Plan 2016-2022, including the zoning of the site for residential use under objective Z1;
- (c) the objectives of the National Planning Framework in particular objectives 3b, 11, 27, 33 and 35;
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (e) the provisions of the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the Department of Housing, Planning and Local Government in December 2018;
- (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 Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018;
- (h) 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;
- (i) the nature, scale and design of the proposed development;
- (j) the availability in the area of a wide range of social and transport infrastructure;
- (k) the established and emerging pattern development in the area;
- (l) the submissions and observations received, and
- (m) the report of the Inspector.

Stage 1 Appropriate Assessment Screening.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion 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 these European sites in view of the site's 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 any other European sites, in view of the site's Conservation Objectives other than the Sites North Dublin Bay SAC or North Bull Island SPA (Natura 2000 Site Codes 000206 and 0004006) which are the European sites for which there is a likelihood of significant effects.

Stage 2 Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Sites North Dublin Bay SAC or North Bull Island SPA (Natura 2000 Site Codes 000206 and 0004006) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for nearby European Sites in view of the site's Conservation Objectives (North Dublin Bay SAC or North Bull Island SPA , Natura 2000 Site Codes 000206 and 0004006). The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular, the

- i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii) mitigation measures which are included as part of the current proposal,
- iii) Conservation Objectives for these European Sites,

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the site's Conservation Objectives.

In the overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the site's 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 planning 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, adequately identifies and describes 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 planning application.

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Residual Landscape and visual impacts will be mitigated through the design and the integration of the landscape and architectural design and the extension of the Santry River linear park
- Traffic and transport impacts will be mitigated through the provision of an upgrade to the Oscar Traynor Road / Coolock Drive signalised junction in order to assist to reduce traffic speeds by reducing the widths of the individual approaching lanes of the northern and western arms and through the Introduction of pelican pedestrian crossing features along Coolock Drive and Greencastle Road in order to provide a more pedestrian friendly environment, and hence reduce traffic speeds of oncoming traffic and also through the preparation of a Mobility Management Plan, which outlines a series of measures to reduce the reliance on private vehicular modes of transport for future residents.
- Noise impacts during construction which will be mitigated by environmental management measures including management of vehicles and plant; sound reduction measures; limited hours of construction; ongoing contact with local residents and monitoring of typical noise levels.
- Dust impacts during construction which will be mitigated by a dust management plan.
- Biodiversity impacts on birds and bats which will be mitigated by construction management measures.

- Biodiversity impacts related to the loss of existing trees at the site which will be mitigated by the proposed landscaping scheme.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, 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

The Board considered that, subject to compliance with the conditions set out below, the proposed development would make a positive contribution to the urban character of the area, would not seriously injure the residential amenities of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

The height of the proposed building exceeds the limit of 16m for this area set down by section 16.7.2 of the Dublin City Development Plan and that the proposed development would materially contravene this provision of the plan. Nevertheless the Board considered that a grant of permission is warranted in accordance with section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, having regard to the provisions in favour of higher buildings set out in the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the Minister under section 28 of the Act in December 2018 and the compliance of the proposed development with SPPR 3 of those guidelines.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the proposed development was located within sufficient distance of several major employment centres including Beaumont Hospital and the City centre and also within 1km of a high capacity integrated public transport system and was satisfied that the development at the scale and density proposed would be fully in accordance with the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, 2018. It further considered that the proposed development would not set an undesirable precedent for similar developments and had regard to recent decisions in the area. The Board was also satisfied that the proposed design strategy as it relates to scale, mass and height of the proposed structures, represents an appropriate design response to the site's locational context and to the established character and pattern of development of the area and was satisfied that the large open space/ parkland to the northern reach of the site provided an appropriate setting for increased height at this location..

The Board did not accept the Inspector's view that the arrangement of the proposed blocks and overall design of the scheme is monolithic and considered that subject to some modification by condition that an acceptable degree of variation and modulation of form and height was achieved which would not detract from the character and pattern of development in the immediate area.

The Board further considered due to the separation distances involved and to the presence of the parkland that the proposed development would successfully integrate into and enhance the character and public realm of the area and that the proposed development would be in accordance with the National Planning Framework and Ministerial Guidelines by the introduction inter alia of a local landmark and the integration of the parkland with the parkland to the west and the furtherance of the Planning authorities objective to create a linear park to Raheny

The Board was also satisfied that the provision of a standalone service building when taken in conjunction with the additional communal areas spread throughout the proposed development represented an innovative design response to the brief and would create a positive shared living environment which promotes integration between residents and therefore would be in accordance with the Sustainable Urban

Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018.

Furthermore the Board was satisfied that the Inspector's concerns with regard to the proposed vehicular access and egress arrangements to the surface parking at Block B and basement car parking serving Blocks B and C in terms of potential conflict in pedestrian, cyclist and vehicular movements were matters which could be addressed satisfactorily through an appropriate waste management plan.

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. Mitigation and monitoring measures outlined in the plans and particulars relating to Phases 1 and 2, including the Environmental Impact Assessment Report submitted with this application as set out in in Volume II Chapter 15 of the EIAR "Summary of Mitigation Measures", 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.

3. The development hereby permitted shall be for Build-to-Rent units and associated facilities 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.

4. The proposed development shall be amended as follows;
 - The westernmost 10 storey element of Block A1 and the westernmost 10 storey element of Block A2 shall be reduced by the omission of two intermediate floors to a maximum of 8 storeys.
 - The easternmost 10 storey element of Block A1 and the easternmost 10 storey element of Block A2 shall be reduced by the omission of one intermediate floor to a maximum of 9 storeys

Revised plans and particulars shall be submitted to and agreed in writing with the planning authority prior to commencement of works.

Reason : In the interest of

5. Prior to the commencement of development, the developer shall submit the following details for the written agreement of the planning authority –
 - A Mobility Management Strategy which 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. Access to bicycle storage shall be provided for all residents of the permitted apartments. The authorised car parking shall be used only by residents of the authorised apartments or by those providing services to them.

- Proposals for the provision of functional of charging points for electric vehicles in all available car parking spaces in the car park.

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

6. Details and samples of the materials, colours and textures of all the external finishes to the proposed development including pavement finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

7. 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 amenities of property in the vicinity and the visual amenities of the area, and to allow the Planning Authority to assess the impact of any such development through the planning process.

8. Details of proposed signage to the gym, café and creche to be submitted prior to occupation for the written agreement of the planning authority.

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

9. The proposed childcare facility shall be provided and retained as part of the development with access provided to both residents of the development and the wider community on a first come first served basis. The creche facility shall be full day care, shall operate between 0800 to 1800 hours Monday to Friday inclusive, between 0800 to 1300 hours on Saturdays and be closed on Sundays and Bank Holidays

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

10. The proposed café shall not be used as a take away for the consumption of hot food off the premises.

Reason: In the interest of orderly development.

11. The proposed development shall be permanently accessible, shall not be gated to external boundaries, and pedestrian gateways from the scheme to the new riverside park shall be open in association with the daylight opening of the public park.

Reason: In the interest of permeability as set out in Development Plan policy for a permeable city.

12. Proposals for a name and numbering scheme for the development and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs 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.

13. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

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.

Reason: In the interest of public health.

15. 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.

16. 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.

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

18. 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. The plan shall also identify measures to protect the structural integrity of buildings on adjoining sites.

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

19. 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.

20. All of the communal parking areas serving the apartments shall be provided with electric vehicle charging points, and all of the houses shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

21. The development shall comply with the following requirements of Parks and Landscape Services Division:
- a) All trees shown to be retained on the site and adjacent to the site, shall be adequately protected during the period of construction as per BS 5837, such measures to include a protection fence beyond the branch spread, with no construction work or storage carried out within the protective barrier. (The tree protection measures shall have regard to the Guidelines for Open Space Development and Taking in Charge, copies of which are available from the Parks and Landscape Services Division).
 - b) A security bond to the value of €100,000 (one hundred thousand euro) shall be lodged with the planning authority, prior to commencement of development, as security to ensure the appropriate protection and preservation of the trees referred to in this condition. The form of the security bond 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.
 - c) Development shall not commence until a landscape scheme prepared by a suitably qualified person comprising full details of the size, species and location of all trees and shrubs to be planted and the treatment of all external ground surfaces, has been submitted to and agreed in writing by the planning authority, and any trees and shrubs which die or are removed within three years of planting shall be replaced in the following season (The landscape scheme shall have regard to the Guidelines for Open Space Development and Taking in Charge).
 - d) For public open space to be taken in charge a landscape specification stating all hardscape and softscape materials shall be submitted for written approval by the planning authority prior to commencement of development and ordering and installation of any proposed public landscape elements. The specification shall schedule all materials, their specification, product code and name, manufacturer/supplier and with details of their proposed construction. All materials shall be fit for purpose, of good design, robust and appropriate for use in external public landscapes. Failure to submit this information for approval or to install un-approved materials will result in rejection for taking in charge.

e) The landscape scheme, excluding the park, accompanying the application shall be implemented fully in the first planting season following completion of the development or development phases, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. (The landscape scheme shall have regard to the Guidelines for Open space Development and Taking in Charge).

f) The public park (Z9 zoning) shall be implemented before or within six months following the completion of the first phase of the development or within a time period agreed in writing prior to construction with the planning authority. Recommendations on tree works shall be undertaken within the park area prior to public access and under the control of a qualified arboriculturist.

g) The river corridor lands zoned Z9 /Conservation Area will be protected from impacts as a result of the development works, except for permitted landscape works in accordance with the approved Landscape Plan. Prior to construction a temporary protection fence with appropriate signage will be erected along the Z9 zoning boundary and storage of materials, vehicular access, disposal or dumping of materials/waste/spoil, liquid run-off, soil excavation and vegetation clearance are prohibited within the protected area south of the fence. Prior to development the details and alignment of the protection fence will be submitted to the planning authority for written approval.

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

22. 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.

23. Prior to the commencement of development, the owner shall submit to and agreed in writing with 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 let or sold separately for that period.

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

24. Prior to expiration of the 15-year period referred to in the covenant, the owner shall be submitted to and agreed in writing with 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.

25. 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 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.

26. 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: 31/07/2019

Paul Hyde