



An  
Bord  
Pleanála

**Board Direction**  
**BD-004573-19**  
**ABP-304792-19**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 22/11/2019.

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 provision of the Dublin City Council Development Plan 2016-2022,
- (b) the planning history
- (c) the reduction in open space by 17%
- (d) Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (March 2018),
- (e) the Urban Development and Building Height - Guidelines for Planning Authorities (December 2018),
- (f) the existing pattern of development at this location,
- (g) the design, scale and layout of the proposed development, and
- (h) the submissions and observations on file,
- (i) the report of the inspector

The Board considered that, subject to the compliance with the conditions set out below, the proposed development would be in accordance Development Plan policy, would not detract from the visual amenities of the area, would be acceptable in the context of the amenities of adjoining properties and be satisfactory in the context of traffic safety and convenience. The proposed development would therefore, be in accordance with the proper planning and sustainable development of the area.

### **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 that the South Dublin Bay and Tolka Estuary SPA (Site Code 004024) and the North Bull Island SPA (Site Code 000206) 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 South Dublin Bay and Tolka Estuary SPA (Site Code 004024) and the North Bull Island SPA (Site Code 000206) 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 the nearby European Site in view of the site's Conservation Objectives, Site Rye Water Valley/Carlton SAC Natura 2000 Site Code 001398). The Board considered that the information before it allowed for the carrying out of an Appropriate Assessment, facilitating a complete assessment of effects, and reaching precise, definitive findings.

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 the European Site

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 adverse effects of the proposed development on the aforementioned European Site, 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 the European site in view of the site's conservation objectives, and no reasonable scientific doubt remains as to the absence of such effects.

#### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars lodged with the appeal on the 28<sup>th</sup> day of June 2019, 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. Details of materials, colours and textures of all external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. The streets and footpaths within the development shall comply with the requirements and specifications of the Design Manual for Urban Roads and Streets (DMURS) issued in 2013.

**Reason:** In order to comply with the guidance given in the Design Manual for Urban Road and Streets.

4. 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.

5. Site development and building works shall be carried out only between the hours of 0700 and 1800 from Mondays to Fridays inclusive, between 0800 and 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 amenities of property in the vicinity.

6. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of permission.

**Reason:** In the interest of visual amenity.

7. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than [1:500] showing –
- (i) The species, variety, number, size and locations of all proposed trees and shrubs
  - (ii) Details of screen planting

- (iii) Details of roadside/street planting
  - (iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

8. 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.

9. All plant, including extract ventilation systems and refrigerator condenser units, shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

**Reason:** In the interest of residential amenity.

10. Drainage requirements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

**Reason:** To ensure adequate servicing of the development and to prevent pollution.

11. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

12. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

13. 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 traffic management, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and the amenities of the area.

14. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.



15. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority, before any of the residential or commercial units are made available for occupation.

**Reason:** To provide for the future maintenance of this private development in the interests of residential amenity and orderly development.

16. Floodlighting levels and arrangements shall not be such as to cause excessive glare or distraction to road users or adjoining property owners. Measures to avoid glare and light spill to adjoining residential properties and onto the road network in the vicinity shall include the use of diffusers, cowls, canopies and protective baffles where appropriate. The extent and level of illumination and details of proposed floodlighting shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development. Compliance testing shall be carried out following installation and a report on this testing shall be submitted to, and agreed in writing with, the planning authority prior to full operation of the floodlights.

**Reason:** In the interests of traffic safety and to protect the amenities of the area.

17. The floodlighting shall be used only during periods when training or matches are taking place, and at all other times the floodlighting shall remain off. The operational hours of the floodlighting shall not extend beyond 2200 hours.

**Reason:** To protect the amenity of properties in the vicinity.

18. 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.

19. 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 the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indemnification 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 the Board 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**

  
Paul Hyde

**Date:** 22/11/2019

**DECISION QUASHED**

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