



An  
Bord  
Pleanála

**Board Direction**  
**BD-004793-19**  
**ABP-305343-19**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 17/12/2019.

The Board decided to grant permission, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

Having regard to the following:

- (a) the location of the site on lands within the village of Newcastle.
- (b) the nature, scale and design of the proposed development, which is consistent with the provisions of the South Dublin County Development Plan 2016-2022 and the Newcastle Local Area Plan 2012-2018 (as extended);
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (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 Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018;
- (f) 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;

- (g) the urban Development and Building heights Guidelines for Planning authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (h) the availability in the area of a wide range of social and transport infrastructure;
- (i) submissions and observations received; and
- (j) the report of the Inspector.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the proposed development, subject to the conditions set out below, is acceptable in terms of design concept; adequately integrates the historic burgage plots/ hedgerows into the layout of the scheme; provides appropriate locations for reinstated hedgerows; is acceptable in form and layout; provides high quality usable open spaces; establishes a sense of place with variety and distinctiveness reflective of the village of Newcastle and provides an appropriate level of residential amenity for future occupants. As such, the Board considered that the proposed development would be consistent with Ministerial Guidelines, the Development Plan and the Newcastle Local Area Plan.

Furthermore, the proposed development, which provides 8 one bed units, 87 two bed units and 276 three bed units and four bed units (as amended by condition) would be consistent with section 28 Ministerial Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual issued by the Department of the Environment, Heritage and Local Government in May 2009, and Policy 10 of the South Dublin County Development Plan in that it includes a variety of adaptable housing types, sizes and tenures, providing a suitable mix of unit types with dwelling units of varying sizes, catering for an appropriate range of different housing needs. The proposed development is therefore considered to 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 area, the Appropriate Assessment Screening Report 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.

## **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 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 provided information which was reasonable and sufficient to allow the Board to carry out an environmental impact assessment and to reach a reasoned conclusion on the significant effects of the project on the environment. The Board is satisfied that the information and data

available and the reasoned conclusion is up to date at the time of taking the decision.

The Board agreed with the summary of the results of the consultations and information gathered in the course of the EIA, set out in the Inspector's report. The Board is satisfied the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision (with the exception of the inspector's concerns in relation to Biodiversity and Landscape and Visual Impact).

### **Reasoned Conclusion of the Significant Effects**

Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submissions from prescribed bodies in the course of the application, the Board considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Population and human health impacts will be positive from the additional housing and ancillary facilities that will be provided on the site and any negative impacts will be mitigated by appropriate construction and operational management plans
- Biodiversity impacts will be mitigated by the retention of a significant extent of historic burgage hedgerow, the reinstatement of hedgerows, new biodiversity friendly landscaping and tree planting, appropriate timing of vegetation removal to minimise disturbance to wildlife and measures to minimise disturbance to bats.
- Soils and geology impacts will be mitigated by construction management measures including minimal removal of topsoil and subsoil; management and maintenance of plant and machinery; dust suppression measures.
- Water: Hydrogeology and Hydrology impacts will be mitigated by management of surface water run-off during construction; rainwater and groundwater pumped from excavations to on-site settlement ponds.

Operational impacts are to be mitigated by surface water attenuation to prevent flooding.

- Water: Water Supply, Drainage and Utilities impacts will be mitigated by surface water attenuation; bunding and appropriate construction practices
- Landscape and Visual Impact Assessment impacts will be mitigated by the retention of a significant extent of historic burgage hedgerow, the reinstatement of hedgerows and by the scale, design and external finishes of the proposed development.
- Archaeological and Cultural Heritage impacts will be mitigated by archaeological monitoring of ground disturbance works; preservation in-situ.
- Air, Dust and Climatic impacts which will be mitigated by dust minimisation plan
- Traffic and transportation impacts will be mitigated by the management of construction traffic; mobility management plan; Construction and Environmental Management Plan
- Noise and vibration impacts will be mitigated by adherence to requirements of relevant code of practice.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures referred to above and subject to compliance with the conditions set out below, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting Inspector (with the exception of the Inspector's concerns in relation to Biodiversity and Landscape and Visual Impact).

In deciding not to accept the Inspector's reasoned conclusions in their entirety, the Board considered that the proposed development would not have an adverse impact on biodiversity, despite the removal of 2 sections of hedgerow (located in the western portion of the site and along the proposed access road from Main Street). It considered that, with the retention of other sections of historic hedgerow and the reinstatement of hedgerows, resulting in an increase in the overall quantity of

hedgerow planting, new landscaping and tree planting, in addition to the mitigation measures outlined in the EIAR to minimise disturbance to bats and other wildlife, impacts would not be significant.

The Board also considered that the Board considered that the proposed development would not have an adverse impact on landscape and visual impact despite the removal of 2 sections of significant historic hedgerow (located in the western portion of the site and along the proposed access road from Main Street). The Board noted the minimal arboricultural value of the hedgerows with sporadic vegetation of variable condition. The retention of other sections of historic hedgerow and the reinstatement of hedgerow, resulting in an increase in the overall quantity of hedgerow planting, new landscaping and tree planting, in addition to the development of new housing of an appropriate scale and design in the context of the village of Newcastle, would have an overall positive impact in terms of landscape and visual impact.

### **Conclusions on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development, having regard to its layout, housing mix and public realm would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design and mix of development and would also 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. Mitigation and monitoring measures outlined in the plans and particulars, including the environmental impact assessment, submitted with this application as set out in Chapter 16 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 period during with the development hereby permitted may be carried out shall be 7 years from the date of this Order.

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

4. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

5. The proposed development shall be amended as follows:

(a) House units nos. C(7) to D1(6) inclusive i.e. house nos. C(7) , C(8), B1(66), B1(67), B2(72), B(71), B(70), B(69), B1(68), A(23), A(24), A(25), A(26), B1(73), F(07), B(74), F(08), B1(75), B1(76), B(77), B(78), B(79), B1(80), C(9) , C(10) and D1(6), as shown on the site layout plan, shall be omitted and the area developed as public open space in conjunction with retention of the existing heritage hedgerow at this location. The landscape plan shall recognise

the heritage significance of the hedgerow and shall provide for its enhancement.

Revised drawings and documentation showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of cultural heritage and landscape.

6. a. PA c. 3 (1)

b. PA c 3 (3)

c. Where perpendicular parking is provided on those streets the additional width required for vehicles to manoeuvre shall be incorporated into the spaces in accordance with figure 4.82 of DMURS without increasing the width of the carriageway to more than 5.5m, unless otherwise agreed with the Planning authority.

d. Dwelling unit nos. B2(81), B (82), B (83), B2(84), B2(87), B (86), B1 (85), C1 (11), and D1 (7), as shown on the site layout plan, and the section of link road to the north shall be omitted in order to align development with the adjoining site to the west. The residential units and link road, which shall be the subject of a future planning application, shall be optimally placed to align with the development of the adjoining site to the west.

Reason: To ensure compliance with DMURS and coordination with the development on lands to the west.

7. All individual housing units located at corners shall be dual frontage.



Revised drawings and documentation showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure active surveillance throughout the development.

8. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of individual houses within the proposed development without a prior grant of planning permission.

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

9. PA c 2 (3)

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

- 10.(a) The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

- (b) Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and all surface water shall be treated within the site. Detailed proposals for the proposed SUDS system, compliant with the Development Plan and Newcastle Local Area Plan, shall be submitted to and agreed with the planning authority prior to the commencement of development.

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

11. No additional development shall take place above apartment 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.

12. PA c.6

13. 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.

14. Proposals for an estate/street name, unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

15. (a) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, those areas of the site that will be taken in charge by the planning authority.

b. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted

development showing the areas to be taken in charge and those areas to be maintained by the Owners' Management Company. 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.

16. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, 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 for occupation of any house.

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

17. 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 interests of orderly development and the visual amenities of the area.

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. 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.

20. 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.

21. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car

parking spaces serving residential units 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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

22. **Reason:** in the interest of sustainable transportation.

23. (a ) Lan 3

(b ) PA c 7 i

(c ) PA c 7 iii

(d ) PA c7 v

(e ) PA c 7 vii

(f ) PA c 7 ix

(g ) PA c 7 x

(h ) PA c 7 xi

(i ) Details of the proposed playing pitch, playspace proposals, teen spaces and MUGAs shall be agreed in writing with the planning authority prior to the commencement of development.

(j ) PA c 8

24. PA c11

25. PA c 34

26. PA c 24

27. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1700 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

28. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

29. 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.

30. 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.

31. Tree and hedgerow security – ‘to ensure the protection of trees and hedgerows on site’ €180,000.

32. 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:** 18/12/2019

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Terry Prendergast

**Note:** In noting the Inspector's comments with regard to surface water, the Board was satisfied that adequate information exists to assess the proposal and to determine that no significant adverse impacts (in terms of material assets or otherwise) arise from the proposed development. Furthermore, the Board considered that the imposition of a condition in relation to surface water (an approach supported by the planning authority and the Inspector) provided appropriate and acceptable mitigation and it considered the condition imposed to be clear and specific.

Please issue Direction with Order