



An  
Bord  
Pleanála

**Board Direction**  
**BD-005052-20**  
**ABP-305623-19**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/01/2020.

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 Dublin city centre, within an emerging built-up area on lands with zoning objective Z14, which aims to 'seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and "Z6" would be the predominant uses' in the Dublin City Development Plan 2016-2022
- (b) the policies set out in the Dublin City Development Plan 2016,
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (d) 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
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009

- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (h) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (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, and
- (m) the report of the Inspector and the submissions and observations received.

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would not seriously injure the residential or visual amenities 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.

### **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 Baldoyle Bay SAC (Site Code: 000199) which is the European site 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 Baldoyle Bay SAC (Site Code: 000199) is a European site 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 Baldoyle Bay SAC (Site Code: 000199), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the Conservation Objectives for the 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 Site, having regard to the site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European sites in view of the sites' 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:

- Population and human health impacts mitigated by appropriate construction and operational management plans
- Biodiversity impacts mitigated by a Japanese Knotweed management plan; lighting sensitivity; additional planting/landscaping and appropriate work practices
- Soils and geology impacts mitigated by construction management measures including minimal removal of topsoil and subsoil; management and maintenance of plant and machinery; dust suppression measures.

- Hydrology and Water Services impacts to be mitigated by management of surface water run-off during construction while Operational impacts are to be mitigated by surface water attenuation to prevent flooding.
- Landscape and Visual impacts mitigated appropriate best practice construction site management and by proposed landscaping.
- Archaeological and Cultural Heritage impacts mitigated by archaeological monitoring of ground disturbance works
- Climate and Air Quality impacts mitigated by dust minimisation plan
- Traffic and Transportation impacts mitigated by the management of construction traffic; Construction and Environmental Management Plans
- Noise and Vibration impacts 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 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 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. 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) Details of privacy screens and buffer strips, which shall be provided between balconies at ground floor levels and above
  - (ii) Details relating to positioning of solar panels
  - (iii) Details of changing/toilet facilities to be provided in close proximity to the ancillary residential facilities/services on the ground floor of Block B.

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

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

**Reason:** In the interest of public health and to ensure a satisfactory standard of development.

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

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

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

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

6. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report (Section 16 – Schedule of Mitigation Measures) and the Natura Impact Statement (Step 4 – Mitigation) submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interests of protecting the environment and public health.

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) Pedestrian crossing facilities shall be provided at all junctions.
- (d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works.
- (e) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

**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. Pedestrian access to the public open space areas shall be permanent, open 24 hours a day, with no gates, security barrier or security hut at the entrance to the development or within the development in a manner which would prevent pedestrian access between the areas identified above.

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

10. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

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

11. 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.



12. Site development and building works shall be carried only out between the hours of 07.00 to 18.00 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.

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

**Reason:** In the interest of orderly development

14. 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 Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

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

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, 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. All parking areas serving the apartments shall be provided with ducting for 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.

18. 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.

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. 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. Prior to the commencement of any works on site, the applicant shall ascertain and comply with all requirements of the Irish Aviation Authority in relation to this development.

**Reason:** In the interest of safety.

22. 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.

23. 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:** 30/01/2020

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Stephen Bohan