

An
Bord
Pleanála

Board Direction
BD-005043-20
ABP-305676-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28/01/2020.

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 location of the site in an urban area of Dublin City and in the Dublin Docklands Strategic Development Regeneration Area and adjacent to Connolly Station (mainline rail, DART and LUAS services), Busaras (national bus services) and Dublin Bus services along Amiens Street and;
- b. The policies and objectives of the Dublin City Development Plan 2016-2022;
- c. The Rebuilding Ireland Action Plan for Housing and Homelessness;
- d. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual;
- e. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018;
- f. The Design Manual for Urban Roads and Streets (DMURS);

- g. The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- h. The pattern of existing and permitted development in the area;
- i. The planning history within the area,
- j. The submissions and observations received, and
- k. The Inspector's report.

Appropriate Assessment

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 urban site, the information for the Screening for Appropriate Assessment 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, location and extent of the proposed development,
- (b) the environmental impact assessment report and associated documentation submitted with the 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 considers alternatives to the proposed development, and adequately identifies and describes the direct,

● direct, secondary and cumulative effects of the proposed development on the environment.

The Board completed an environmental impact assessment in relation to the proposed development and, in doing so, agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report, associated documentation submitted by the applicant, and submissions made in the course of the planning application, and adopted the Inspector's assessment in this regard.

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:

- Significant direct positive effects with regard to population due to the increase in the housing stock.
- A direct negative effect on sunlight and daylight which could interact with population and human health. Given the stepped approach to building height within the site with the tallest elements in the centre stepping down to lower elements along the periphery of the site and the quantum and location of the public and semi public open spaces within the site it is considered that the effects will be mitigated through the design strategy.
- A direct negative effect on the landscape and visual environment by the change in the use and appearance of a relatively large site from brownfield to residential and commercial. Given the location of the site within Dublin City this is considered to be a direct positive effect on the receiving environment overall.
- A direct effect on cultural heritage due to the proposed alterations to existing built heritage features within the site and the impact on views of protected structures.
- Potential negative effects arising from noise and vibration and air during construction. These effects will be short-term in nature and will be mitigated by measures outlined in the relevant section of the EIAR.
- Potential negative indirect effects on water during construction and operational phases which will be mitigated through construction management and by the proposed surface water management and attenuation system with respect to stormwater runoff, the drainage of foul effluent to the public system, and flood

mitigation measures and which will be mitigated during construction by appropriate management measures.

The Board 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 that the proposed development would constitute an acceptable quantum and density of development in this accessible urban 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.

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.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

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

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

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

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

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

Reason: In the interests of orderly development and clarity.

5. All mitigation measures identified in Chapter XXXX “ Title “ of the EIAR, in the Flood Risk Assessment and in other particulars submitted with the application shall be implemented in full by the applicant except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and to protect the environment during the construction and operational phases of the development.

6. 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 and facilities, for the benefit of the occupants of the proposed dwellings.

7. The following details shall be submitted to, and agreed in writing with, the Planning Authority within 6 months:

(a) Full details of mitigation measures to address the impacts of wind on the sitting criteria of communal open spaces in Blocks B, C and D as indicated in the submitted ‘Pedestrian Comfort CFD Report’.

(b) Details of a maintenance strategy for materials within the proposed development.

(c) Details of all signage and shopfronts associated with the development.

(d) Details of boundary treatments and details of the proposed highline bridge structures to include proposals for the treatment of the undercroft of the bridge structure.

(e) Details for the provision of 24-hour access through the site from Sherriff Street Upper, Oriel Street Lower and Seville Place. No gates shall be erected at entrances to the site from Sherriff Street Upper, Oriel Street Lower or Seville Place.

h) An updated public lighting strategy for the development (including the connection from the site to Seville Place via the vaults structure). The revised lighting plan shall address the mitigation measures detailed in the EIAR.

(g) Final layouts to address anomalies in the layout illustrated at ground, first floor and second floor on drawings RKD-XX-00-DR-A_1004, 1005 and 1006, on Drawings RKD-00-00DR-A-1004, 1005 and 1006, and anomalies in relation to access to roof gardens and terraces.

Reason: In the interests of orderly development, visual amenities, permeability, connectivity and good urban design.

8. (a) Commercial units shall not be amalgamated or subdivided, unless authorised by a further grant of planning permission.

(b) No external security shutters shall be erected for any of the commercial premises (other than at services access points) unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: To prevent unauthorized development.

9. The following requirements in terms of traffic and transportation shall be incorporated and where required, revised drawings / reports showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:

(a) Detailed design proposals for the vehicular access and circulation within the site to ensure the safe and efficient movement of vehicular traffic, to minimise the potential for queuing on the adjoining public road network and to reduce the risk of vehicle, pedestrians and cyclist conflict within the site.

(b) An independent road safety audit of the revised design.

(c) Mobility Management Plan and Car Parking Strategy.

(d) Details of works to the public road to facilitate the proposed development. All works to the public roads / footpaths shall be completed to taking in charge standards and shall be to the satisfaction of the Planning Authority.

(e) All car parking spaces at basement level serving the SHD development shall be designated for car share use.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of traffic, cyclist and pedestrian safety and sustainable travel.

10 A minimum of 10% of the proposed car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of charging points.

Reason: In the interest of sustainable transport.

11. The site shall be landscaped in accordance with the submitted scheme of landscaping.

Reason: In the interest of residential and visual amenity.

12. The developer shall facilitate the preservation, recording and protection of architectural heritage features that exist within the site.

(a) A conservation architect / engineer of RIAI Conservation Level Grade II or equivalent shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the

works. In this regard, all permitted works shall be designed to cause minimum interference to the retained structures and/or fabric.

(b) Where historic fabric is to be altered or removed, the structures are to be recorded in accordance with the Heritage Council's policy for recording industrial archaeology, a permanent record of which shall be provided to the Local Authority and the Irish Architectural Archive.

(c) The following information should be provided for the written agreement of the Local Authority:

(i) Detailed architects and structural engineers section drawings including details of underpinning and retaining walls should be provided for all key interfaces / junctions between the proposed works and the existing elements of the Protected Structures that will be affected by the construction of the new basement and vehicular ramp, new entrance from Seville Place and other parts of the buildings.

(i) Detailed methodology shall be provided for the temporary dismantling and reconstruction of the boundary wall onto Oriel Hall.

(ii) Detailed methodology shall be provided for the removal of part of the boundary wall onto Oriel Street Upper in accordance with the details shown on the submitted plans and particulars.

(iii) Detailed schedule to be prepared for all salvaged material, and confirmation of where this fabric will be incorporated into the proposed development.

Reason: In order to facilitate the conservation, preservation and/or recording of the architectural heritage of the site.

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

Reason: In the interest of public health.

14. (a) 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.

- (b) The development shall comply with the Greater Dublin Regional Code of Practice for Drainage Works.
- (c) Foul and surface water systems shall be completely separate within the site with a combined final connection discharging to Irish Water's combined sewer network. A dead leg for future surface water connection shall be provided.
- (d) All surface water discharges from the development shall be attenuated to two litres per second per hectare.
- (e) All internal basement drainage must be lifted, via a pumping station, to a maximum dept of 1.5 m below ground level before being discharged to gravity from the site to the public sewer.
- (f) The outfall surface water manhole from the development shall be constructed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.

Reason: In the interest of public health and surface water management.

15. 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.

16. 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.

17. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located

Underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

18. Proposals for an apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs, and apartment numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

19. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

20. A 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.

21. 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.

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

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

23. Prior to the commencement of the development the applicant shall contact the Irish Aviation Authority in relation to all crane operations, with a minimum of 30 days prior notification of their erection. Details of a suitable marking and lighting scheme as agreed with the Irish Aviation Authority shall be submitted to the planning authority prior to the commencement of construction. Additional information regarding crane type (tower, mobile), elevation of the highest point of crane, dimensions of crane, ground elevation and location co-ordinate shall also be required by the Authority to allow for an aviation safety assessment.

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

24. (a) The development shall comply with TII's 'Code of Engineering Practice for Works on, Near or Adjacent to the Luas Light Rail System'.

(b) The developer shall comply with the requirements of Irish Rail in relation to works on or near a railway boundary.

Reason: To protect the safety and operational requirements of Luas, railway operations and public safety.

25. 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.

26. 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.

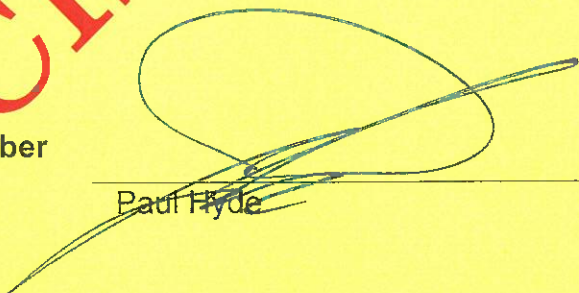
27. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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.

28. The developer shall pay to the planning authority a financial contribution in respect of the Luas Red Line Docklands Extension (Luas C1) in accordance with the terms of the Supplementary Development Contribution Scheme, made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Board Member



Paul Hyde

Date: 28/01/2020

DECISION QUASHED