



An
Bord
Pleanála

Board Direction
BD-005292-20
ABP-305940-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 04/03/2020.

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 in the established area of Sandyford and adjacent to the Stillorgan Luas stop,
- (b) the policies and objectives set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the Sandyford Urban Framework Plan 2016-2022,
- (c) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018,
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (e) 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,
- (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 Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018,
- (h) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009,
- (i) the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018,
- (j) the nature, scale and design of the proposed development,
- (k) the availability in the area of a wide range of social, community and transport infrastructure,
- (l) the pattern of existing and permitted development in the area,
- (m) the planning history within the area, and
- (n) the report of the Inspector and the submissions and observations received.

Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European sites including the South Dublin Bay Special Area of Conservation (site code 000210), Rockabill to Dalkey Island Special Area of Conservation (site code 003000), North Dublin Bay Special Area of Conservation (000206), Baldoyle Bay Special Area of Conservation (site code 000199), South Dublin Bay and River Tolka Estuary Special Protection Area (site code 004024), North Bull Island Special Protection Area (site code 004006), Poulaphouca Reservoir Special Protection Area (site code 004063) taking into account the nature, scale and location of the proposed development, the Screening Report for Appropriate Assessment submitted with the application, the Inspector's report and the 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 the above European sites or on any other European site in view of the sites' conservation objectives 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 application.
- (c) The submissions from the Planning Authority, the observers and prescribed bodies in the course of the application.
- (e) The Inspector's report.

The Board agreed with the summary of the results of consultations and information gathered in the course of the EIA, and the examination of the information contained in the Environmental Impact Assessment Report and the associated documentation submitted by the applicant and the submissions made in the course of the application as set out in the Inspector's report. The Board is satisfied that 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.

Reasoned Conclusions on the Significant Effects:

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

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.

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

The development will have positive economic impacts in terms of job creation during the construction phase. It will have a positive impact on the population of the area, provide additional homes and consolidate the urban area. Potential negative impacts to human beings during the construction phase will be mitigated through the implementation of appropriate mitigation measures including a Construction and Environmental Management Plan.

Land and Soils

There will be extensive excavation and infilling activities on the site. There is potential for accidental spills and contamination of soils during the construction phase. There is potential for air quality impacts from dust from excavations and potential for impacts to water quality from dewatering activities and from contaminated run off. Any negative impacts will be mitigated by appropriate excavation on the site, measures to control sediment in surface water runoff and use of construction management measures.

Water

Impacts during the construction phase primarily relate to potential contamination from run off containing pollutants (such as minerals and oils) and high concentrations of suspended solids. Potential for impact on the water quality will be mitigated by the use of construction management measures during construction, servicing of the site to the public system and mitigation measures to prevent water pollution. The implementation of a range of SuDS methods will impact positively on surface water drainage.

Air Quality

During the construction phase there is potential for dust emissions from earthworks and construction activities. A number of mitigation measures are set out to control potential impacts during the construction phase. These include general dust management measures including the installation of dust monitoring gauges, demolition techniques, construction management measures etc. A final Construction Environmental Management Plan will be prepared prior to the construction of the development.

Noise and Vibration

The development will generate noise disturbance during the construction phase. This will arise from site clearance, piling, excavation and substructure works, from the erection of buildings and also from construction traffic accessing and egressing the site. A range of mitigation measures are proposed during the construction phase including limiting hours of construction activities, selection of appropriate plant and noise monitoring during critical periods at sensitive locations. Specific measures will be put in place to protect the temporary school site adjacent to the site from adverse impacts. During the operational phase, as part of the detailed design of the development, plant items with appropriate noise rating, and where necessary, appropriately selected remedial measures will be specified in order that the adopted plant noise criteria is achieved at the facades of noise sensitive properties, including those within the development itself.

Visual Impact

In terms of impacts on the landscape character, it is considered that the development will have positive effects as it will transform an underutilised urban site. No significant adverse negative impacts are predicted. It is considered that the development is entirely in keeping with the existing built context and future planned context for the area. The development conveys a gateway to the Sandyford Mixed Inner Core and makes a positive contribution to the skyline. The overall impact of the proposed development on the existing urban landscape and the landscape character of this part of the city is assessed as moderate and positive.

Traffic

Potential traffic impacts during both the construction and operational phase will largely be mitigated through the implementation of a Construction Traffic Management Plan and a Mobility Management Travel Plan.

Conclusions on Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this 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, would be acceptable in terms of pedestrian and traffic safety and would not result in a significant flood risk at the development site or upstream or downstream of the site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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

Reason: In the interest of clarity.

2. 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: In the interest of orderly development.

3. The applicant shall submit the following to the Planning Authority for agreement prior to the commencement of development:

a) Proposals and drawings for addressing the level change adjoining Block A between the site and the adjoining site to the west.

b) Detailed landscaping and architectural proposals for addressing the tie in with the pedestrian boulevard on the adjoining site to the west.

(c) Full details of way finding through the site including details of access to the public lifts which should include hours of operation.

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

4. 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.

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

Reason: In the interest of public health.

6. 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.

7. 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 apartments within the scheme.

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

8. 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.

9. 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.

10. The following requirements in terms of traffic, transportation and mobility 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) The roads and traffic arrangements serving the site (including footpath connections and 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 including junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings, car parking bay sizes and road access to the development shall comply with the requirements of the Design Manual for Roads and Streets and with any requirements of the Planning Authority for such road works.

(c) Cycle tracks within the development shall be in accordance with the guidance provided in the National Cycle Manual.

(d) The materials used in any roads/footpaths/set down areas provided by the developer shall comply with the detailed standards of the Planning Authority for such road works.

(e) A Mobility Management Plan, to include parking management, shall be prepared and submitted to the Planning Authority for approval prior to the commencement of development.

(f) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the Planning Authority for approval and shall carry out and cover all cost of all agreed recommendations contained in the audit.

(g) Full details of cycle parking facilities to be submitted to the Planning Authority for written agreement.

(h) Full details of development works at the interface with the public realm at Carmanhall Road and Blackthorn Drive within and outside the site boundary. All works to be carried out on the public road/footpath shall be at the Applicant's expense to meet the Dun Laoghaire Rathdown County Council's Taking in Charge requirement and all to the satisfaction of the Planning Authority. The works shall include the provision of an accessible continuous legible unobstructed minimum pedestrian footway along each development frontage and an unobstructed westbound cycle track along Blackthorn Drive as a continuation of the cycle track to the east. Details shall include tree planting and any conflicts between provision of services and or transport infrastructure and provision of tree planting will be identified and agreed.

(i) Designated visitor parking and crèche parent and child parking spaces shall be provided within the site at the Carmanhall Road podium parking area. Clearly designated spaces for car share use shall be provided.

Reason: In the interests of traffic, cyclist and pedestrian safety and good urban design.

11. A minimum of 10% of all communal car parking spaces shall be provided with

functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of electric vehicle charging points/stations at a later date, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

12. 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 three years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

13. Prior to the commencement of development, the developer shall retain the professional services of a qualified Landscape Architect as Landscape Consultant throughout the life of the site development works and shall notify the planning authority of that appointment in writing. The developer shall engage the Landscape Consultant to procure, oversee and supervise the landscape contract for the implementation of the permitted landscape proposals. When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, he/she shall submit a Practical Completion Certificate (PCC) to the planning authority for written agreement, as verification that the approved landscape plans and specification have been fully implemented.

Reason: To ensure full and verifiable implementation of the approved landscape design proposals for the permitted development, to the approved standards and specification.

14. Prior to the commencement of development, the developer shall submit to the planning authority for written agreement proposals for public art within the development. The public art shall be chosen and approved by an accredited art curator on behalf of and provided at the cost of the developer and shall accord with National Policy on Public Artworks and shall be installed within a timeframe agreed with the planning authority.

Reason: In the interest of visual amenity.

15. 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.

16. Details of all external signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

17. 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.

18. 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 and 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.

19. Public lighting shall be provided in accordance with a scheme, 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 unit.

Reason: In the interests of amenity and public safety.

20. Site development and building works shall be carried only out between 07.00 to 19.00 hours Mondays to Fridays inclusive, between 08.00 to 17.00 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.

21. Proposals for an estate/street name(s), apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Thereafter, all estate and street signs and 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 local appropriate place names for new residential areas,

22. 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 amenity of the area.

23. 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 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.

24. 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.

25. A final Site-Specific Construction and Environmental Management Plan shall be submitted, for the written agreement of the planning authority at least five 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, sustainable drainage and flooding.

26. 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.

27. 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 for construction traffic, parking/compound for plant and machinery and the location for storage of deliveries to the site.

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

28. As the car park and under podium services as well as the access and egress arrangements are shared facilities that relate to each block, no block shall be segregated by sale or letting from the approved right of access and egress and use of the shared service elements that relate to it, whether constructed or yet to be constructed.

Reason: In the interest of orderly development.

29. Prior to the commencement of 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.

30. The developer shall comply with the following requirements of Transport Infrastructure Ireland:

- a) The developer shall ensure that there is no adverse impact on Luas operation and safety. The development shall comply with Transport Infrastructure Ireland's 'Code of Engineering Practice for Works on, Near or Adjacent to the Luas Light Rail System'.
- b) The developer shall submit a Construction Management Plan to Transport Infrastructure Ireland and the planning authority for written agreement prior to the commencement of development. The plan shall identify mitigation measures for existing operational Luas infrastructure.
- c) Tram signal priority at the Luas junction with St. Raphaela's Road shall be maintained.

Reason: To protect the Luas and public safety.

31. The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and other plans and particulars submitted with the planning application shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions. The developer shall appoint a person with an appropriate ecological and construction expertise as an environmental manager to ensure that the mitigation measures identified are implemented in full.

Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

32. 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.

33. 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.

34. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood 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

Date: 04/03/2020

Paul Hyde