



An
Bord
Pleanála

Board Direction
BD-005353-20
ABP-305979-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 10/03/2020.

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:

1. The location of the site in the established urban area of Dublin City and;
2. The policies and objectives in the Dublin City Development Plan 2016-2022;
3. The Rebuilding Ireland Action Plan for Housing and Homelessness;
4. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual;
5. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018;
6. The Design Manual for Urban Roads and Streets (DMURS);
7. 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;
8. The pattern of existing and permitted development in the area;
9. The planning history within the area,
10. The submissions and observations received, and
11. 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 screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development on an urban site served by public infrastructure,
 - (b) the absence of any significant environmental sensitivities in the area,
 - (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),
- the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

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.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) In Block F and Block D all apartments shall a doorway leading from the living / dining area to the balcony.
 - (b) In Block I the corner window serving bedroom no. 2 shall at 1st floor shall be opaque to the northern elevation.
 - (c) A landscape strip with a minimum depth of 1.5m shall be provided in the roof level terraces of Blocks D and Block F on the northern gable of Units D1.58 and D2.62 and F1.58 and F2.65 to protect the privacy and amenity of the adjoining bedrooms.

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

Reason: In the interests of residential amenity.

3. The streets within the development shall comply with the requirements and specifications of the Design Manual for Urban Roads and Streets (DMURS) issued in 2013. The proposals submitted with the application shall therefore be amended in the following ways –

- (a) The street between the proposed junction on Carnlough Road and the ramp serving the underground car park and the service access to the rear of Block A shall have a carriageway no more than 5.5m wide.
- (b) The footpath from Carnlough Road along the eastern side of the new Rowan Place and the eastern and northern sides of Block A shall provide a clear passage for pedestrians at least 3m wide, with extra width beyond the 3m passage to provide landscaping / a verge area or other physical measures to prevent vehicles parking or stopping on any part of the footpath.
- (c) On streets to the north of the new Observatory Square no carriageway shall be wider than 5m, or 4.8m where a shared surface is provided, and the radius of no corner shall be greater than 3m.
- (d) Pedestrian access shall be maintained from the north-eastern corner of the development to Fassaugh Avenue at all times. A stile may be erected to require cyclists using this access to dismount. However, any such structure shall allow unimpeded passage for persons with impaired mobility and at least 20cm clearance in each direction for a dismounted cyclist pushing a bicycle of the type used for Dublin bikes. Any structure which does not allow such passage and clearance shall be removed.

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

Reason: In order to comply with the guidance given in the Design Manual for Urban Roads and Streets (DMURS) issued by the minister in 2013 and to provide an integrated street network that is safe and convenient for all road users and that achieves an acceptable standard of urban design

4. (a) The mitigation measures identified in the AWN Technical Note – Noise Assessment Relating to Increased Capacity Proposal, shall be implemented in full by the applicant, except as may otherwise be required in order to comply with the following conditions.

(b) There shall be no deliveries within the service yard in Block A between the hours of 23.00 hours and 7.00 hrs (night-time).

Reason: In the interest of residential amenity.

5. Detailed design proposals for the improvement of the junction between Carnlough Road and Cabra Road shall be submitted to and agreed in writing with, the planning authority prior to the commencement of development. The detailed design proposals shall address the issues raised in the Quality Audit Prepared by Burton Consulting Engineers as submitted with the application.

Reason: In the interest of traffic safety.

6. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority a car parking and cycle parking management plan.

(a) The plan shall provide for a maximum of 403 car parking spaces (not including the space within the curtilage of Block I), of which 78 would serve the proposed neighbourhood centre with the remainder serving the proposed apartments. At least 8 spaces for the neighbourhood centre and 20 spaces for the apartments shall be reserved for people with impaired mobility.

(b) The plan shall also demonstrate that a minimum of 529 no. resident bicycle parking / storage spaces and a total of 18 no. commercial bicycle parking spaces will be provided within the development at basement and surface levels. Detailed design proposals for secure cycle storage spaces and cycle parking spaces shall also be submitted to the PA for agreement.

(c) No car parking space shall be used for any purpose not directly related to the development and no space shall be sold, leased, licenced or sub-let in connection with any other use or purpose.

- (d) All of the communal parking areas serving the apartments shall be provided with 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.
- (e) 4 no. clearly designated spaces for car share use shall be provided in accordance with the mobility management plan.

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

Reason: To regulate the use of the parking within the development and limit the traffic that it would generate.

7. Details of the following shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:

- (a) Materials, colours and textures of all the external finishes to the proposed buildings.
- (b) Landscaping, planting, boundary and surface treatments which shall generally conform to the scheme submitted with the application.
- (c) Balustrades and privacy screens for balconies
- (d) Signage throughout the development, including the shopfronts on the commercial premises in the neighbourhood centre
- (e) The initial uses of units 1, 2 and 3 of Block A shall be within Classes 1 or 2 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001 as amended, or as a restaurant or café. If uses as a restaurant or café is proposed the submitted details shall include detail of the air handling and ventilation.
- (f) Public lighting throughout the development.
- (g) Public art for the proposed public open space.

Reason: In the interests of visual and residential amenity.

8. Not more than 75 no. two and three-bedroom apartments shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed.

Reason: To ensure that childcare facilities are provided in association with residential units.

9. Proposals for street names, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

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

10. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

11. 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.

12. Communal waste storage areas in the development shall be designed and managed in accordance with an operational waste management plan that shall be submitted and agreed with the planning authority prior to the commencement of development. Prior to the occupation of any of the commercial units a food and bio-waste management plan shall be submitted for the written agreement of the planning authority. Grease traps shall be installed and managed in any commercial food preparation area or kitchen.

Reason: In the interests of public health.

13. 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 interests of residential amenity.

14. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall take place above roof level other than within the roof enclosures shown on the submitted drawings, whether or not it would otherwise constitute exempted development.

Reason: In the interests of visual amenity.

15. The development shall be carried out on a phased basis in accordance with a phasing plan that shall be submitted for the written agreement of the Planning Authority. Work on any phase after the first shall not commence until the written agreement of the planning authority is given.

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

16. 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) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during the course of construction;
 - (b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (d) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
 - (e) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

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. Prior to the commencement of development, the developer shall contact Iarnród Éireann to ensure an agreed safe system of work in accordance with Guidelines RSC-G-010A. Any works associated with the proposed development shall ensure that the integrity of the railway is maintained

Reason: To protect the railway and public safety.

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) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (b) 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. 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.

22. 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

23. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City extension 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. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

24. 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

Note: The Board considered the inspectors recommendation to amend Block A by subdivision of the midpoint and merging units on several floors to create dual aspect apartments however the Board was satisfied that the floor arrangements as proposed was acceptable and would not injure the residential amenities of future occupants.

Board Member

Date: 10/03/2020

Paul Hyde