



An  
Bord  
Pleanála

**Board Direction**  
**BD-006246-20**  
**ABP-306778-20**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 10/08/2020.

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 established built-up area on lands with zoning objective Z14, which is 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 - 2022,

(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 report of the Chief Executive of Dublin City Council

(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 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 Screening for Appropriate Assessment document 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**

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 amenity 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.

The Board considered that the proposed development is, apart from the building height parameters, broadly compliant with the current Dublin City Development Plan 2016 – 2022 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the Plan with respect to building height limits. The Board considers that, having regard to the provisions of section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the development plan would be justified for the following reason and considerations:

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The proposed development is considered to be of strategic and national importance having regard to: the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended); its location, proximity to the city centre and its Z14 mixed use zoning in the Dublin City Development Plan 2016-2022, and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.

In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended):

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 13 and 35) and the 'Urban Development and Building Height

Guidelines' (in particular section 3.2, SPPR 3) relating to sites served by good public transport, appropriate densities on sites on larger urban redevelopment sites and the use of a range of building heights for good urban design, place making and enhancement of the character and public realm 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, or as otherwise stipulated by conditions hereunder, and the proposed 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. (a) Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.
- (b) In addition to the apartments facing the East Wall Road, all glazing in apartment units in Block 1 (first to third floor apartments 17, 27, 37, fourth floor apartment 42, ground floor apartment 08) and Block 3 (ground floor apartments 02 and 03, third floor apartments 29 and 30, first and second floor apartments, 12, 21, 11 and 20 and fourth to sixth floor apartments 39, 48, 57, 38, 47 and 56) and adjacent Unit 11 shall be provided with acoustic glazing, details and specification of which shall be submitted to and agreed in writing with the planning authority, prior to the

commencement of any development on this site.

**Reason:** In the interest of visual amenity and to protect the residential amenity of future occupants of the apartment units adjacent to Unit 11.

3. Prior to occupation of the ground floor units the developer shall submit full details of the location and management of the area to be reserved for social, cultural, creative and artistic purposes. This shall amount to 5% of the ground floor area of the permitted development.

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

4. Details of all security shuttering, external shopfronts, lighting and signage of the commercial/retail units shall be the subject of a separate planning application for permission. All signage to ground floor units should consist of individual lettering mounted or hand painted on building, with the lettering to be of an appropriate scale and consist of high-quality materials.

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

5. No advertisement or advertisement structure shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

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

6. 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 amenities of property in the vicinity and the visual amenities of the area.

7. (a) 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 and shall notify the planning authority of the 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 area inspected and completed to the satisfaction of the Landscape Consultant, the Landscape Consultant 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.
- (b) Development shall not commence until a landscape scheme prepared by a qualified Landscape Architect comprising full details of the size, species and location of all vegetation to be planted and the treatment of all external ground surfaces, playground and gym proposals for civic plaza and green roof proposals for new buildings has been submitted to and agreed in writing by the planning authority.
- (c) 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.
- (d) Prior to commencement of development, a tree retention and protection plan shall be prepared and submitted by a qualified Arboriculturist for

approval of the planning authority prior to construction commencement. All public street trees adjacent to the site, shall be adequately protected during the period of construction as per BS 5837, such measures to include a protection fence beyond the branch spread, with no construction work or storage carried out within the protective barrier.

- (e) The developer shall be responsible for maintenance and management of all open spaces. The public open spaces shall operate as public park / public realm in perpetuity, with public access and use operated strictly in accordance with the management regime, rules and regulations including any byelaws for public open space of the planning authority at all times.
- (f) Where feasible the planting of native pollinator friendly species of plants and trees shall be incorporated into the landscape plan.
- (g) No gates shall be erected at the entrances to the site from East Wall Road or Merchants Road.

**Reason:** In the interests of residential and visual amenity.

- 8. Prior to the commencement of development, the developer shall provide a risk assessment and a strategy for a management system for invasive alien species to be used for the duration of the proposed project in accordance with the Dublin City Invasive Alien Species Action Plan (2016-2020).

**Reason:** To ensure compliance with the EU Invasive Alien Species Regulation (2014) and the European Communities (Birds and Natural Habitats) Regulations 2011 and with the policies of the National and City Biodiversity Action Plans and the Dublin City Development Plan.

- 9. A survey of nesting birds for the development site shall be prepared by a qualified ecologist, with particular reference to nesting gulls and passerine birds to be completed and submitted to the planning authority prior to any demolition



or construction activity on site. Pending the results of this survey, a license may be required to re-locate/re-house birds from the National Parks and Wildlife Service and evidence of obtaining such license and successful re-location is required to be submitted to the local authority prior to any demolitions or construction activity on site. The applicant should ensure that the works are monitored by a qualified ecologist. Works may need to be delayed to ensure breeding is complete. The nesting birds survey shall include recommendations for the location, mounting and design of bird nesting boxes to be included in the proposed development and installation of these shall be verified post-installation in writing and photographed by a qualified ecologist to the local authority.

**Reason:** To ensure compliance in accordance with Annexes I and II of the EU Birds Directive and the Wildlife Act and with the City Biodiversity Action Plan and City Development Plan.

10. A further bat survey shall be carried out during May-September by a qualified ecologist and shall be completed and submitted to the local authority prior to any demolition or construction activity on site. Pending the results of this survey, a license may be required to re-locate/re-house bats from the National Parks and Wildlife Service and evidence of obtaining such license and successful re-location is required to be submitted to the local authority prior to any demolitions or construction activity on site. The applicant should ensure that the works are monitored by a licensed bat worker.

The bat survey shall include recommendations for the location, mounting and design of bat boxes to be included in the proposed development and installation of these shall be verified post-installation in writing and photographed by a qualified ecologist to the local authority.

**Reason:** To ensure compliance in accordance with Annex IV and Article 10 of the EU Habitats Directive and the Wildlife Act and with the City Biodiversity Action Plan and City Development Plan.

11. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
  - (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. 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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

12. 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) The proposed roads, junctions, car parking spaces, footpaths and hard landscaping areas to be taken in charge including public lighting and all materials shall be agreed in writing with the Roads Maintenance Division of Dublin City Council prior to the commencement of development.
- (d) 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.
- (e) Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include service access arrangements to units 11, 15 and 16 for construction and operational purposes (such arrangements shall be as indicated in the plans and drawings submitted with the application), provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.
- (f) Prior to the occupation of the development, a Parking Management Plan

shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continuously managed.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units and in the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

13. A minimum of 10% of all car parking spaces shall be provided with electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted 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.

14. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no

misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

15. The 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.

16. Site development and building works shall be carried out only between 0700 to 1900 hours Mondays to Saturdays inclusive, 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.

17. 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.

18. 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.

19. 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.

20. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

21. 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

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.

22. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

23. 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. Street lighting in private areas shall be independent to the public lighting power supply. Public lighting shall be

provided prior to the making available for occupation of any house.

**Reason:** In the interests of residential amenity and nature conservation.

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.

25. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

26. The developer shall pay to the planning authority a financial contribution in respect of extension of Luas Line C1 – Red Line Docklands 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, 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:** 13/08/2020

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Michelle Fagan