



An
Bord
Pleanála

Board Direction
BD-006660-20
ABP-307441-20

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

The Board decided to grant permission, 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 on lands with a zoning objective for residential development;
- (b) the policies and objectives of the Cork City Development Plan 2015-2021,
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- (e) the provisions of 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,
- (f) the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in March 2018,

- (g) 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 2019, as amended
- (h) the nature, scale and design of the proposed development and the planning history relating to the site,
- (i) the proximity of the site to third level institutions, a wide range of social infrastructure and to public transport services,
- (j) the pattern of existing and permitted development in the area,
- (k) the submissions received by An Bord Pleanála in relation to this application,
- (l) the report of the Chief Executive of Cork City Council,
- (m) the report of the planning inspector.

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 suburban area, the Screening Report for Appropriate Assessment submitted with the application and the Inspector's report and conclusions and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded, on the basis of the available information about the circumstances of the application site and the nature of the proposed development, that the proposed development would not be likely to have a significant effect on any Natura 2000 site, either in itself or in combination with any other plan project, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

An Environmental Impact Assessment screening determination for Strategic Housing applications was carried out by the Board Inspector and it was concluded that based on the nature, size and location of the proposed development that there is no real likelihood of significant effects 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, and
- (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 the proposed development, having regard to its nature and scale, 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.

Conclusion on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would achieve an acceptable standard of urban design and would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of pedestrian, cyclist and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted the concerns of the Inspector with regard to the potential and perceived injury to the residential amenity of the neighbouring properties in the Grove on the basis of the elevated position and height of the proposed development relative to adjoining houses,

However, having examined the proposed development against the criteria as set out in Section 5.2 of the 2009 Guidelines and in particular in relation to the detailed advice on the criteria to be considered in the design and assessment of higher density residential development notably

- acceptable building heights ;
- avoidance of overlooking and overshadowing;

the Board, concluded that the proposed development, given the separation distance of 25.88 m at its nearest point to the Grove, would be acceptable and in compliance with the Ministerial Guidelines based on the site context and layout and that sufficient effort had been made by way of orientation, window design and maintenance of boundary trees to mitigate against an unacceptable level of overlooking or overbearing impact.

Furthermore, the Board was satisfied that the proposed development would not, having regard to the separation distances involved, seriously injure the amenities of the adjoining residential properties at the Grove and Orchard Road and the Brookfield student campus by way of overlooking or be unduly overbearing and considered that the scale of the proposed development was appropriate in relation to its proximity to the boundaries with those properties and that the orientation and design of the windows would take adequate account of the neighbouring properties and succeed in minimising any negative impacts and further succeed in achieving the appropriate balance between increased density and existing residential amenities required under policies of the Development Plan.

Furthermore, the Board noted but did not accept in full, the opinion of the planning authority as outlined in the Chief Executives Report and considered that the proposed development was acceptable in terms of the proposed height. The Board are satisfied that subject to the conditions attached, which considers the submissions received, the CE's report and inspector's assessment, that the proposed development represents an appropriate balance between the provision of higher residential densities (including for student accommodation) and the protection of the existing amenities and established character of the area, and provides for the sustainable and efficient use of land within a public transport corridor.

In respect of the Inspector's concerns with regard to the provision of satisfactory levels of communal amenity space for future residents in accordance with Variation no. 5 of the Cork City Development Plan 2015-2021, the Board was satisfied that the area and quality of the space in terms of its layout and orientation makes adequate provision for secure and convenient bicycle parking and will not erode the value of open space within the development. The proposed development would provide satisfactory standards of residential amenity for future occupants of the scheme and would be in accordance with the proper planning and sustainable development of the area.

In respect of the Inspector's concerns with regard to the existing alignment of Orchard Road, the restricted sightlines available at the proposed site entrance and the absence of any set-down area serving this development of 216 no. student bedspaces, the Board was satisfied that the proposed development would not give rise to congestion or obstruction of other road users and would not endanger public safety by reason of a traffic hazard having regard to the limited no of car spaces proposed as well as the urban nature of the site and the accessibility to public transport and other transport means such as pedestrian and cycle modes and to the managed nature of the proposed development.

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) The proposed development hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided under section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, and shall not be used for any other purpose without a prior grant of planning permission for change of use,
(b) Full details of the hours of operation of the proposed café unit shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The unit shall not be used for the sale of hot fast food or intoxicating liquor for consumption off the premises.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

3. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

4. The proposed development shall be implemented as follows:

- (a) The student accommodation and complex shall be operated and managed in accordance with the measures identified in a finalised Student Accommodation Management Plan which shall be submitted to and agreed in writing with the planning authority prior to first occupation of the development,
- (b) Student Housing Units shall not be amalgamated or combined.

Reason: In the interest of the amenities of occupiers of the units and surrounding properties.

5. 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.

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. Access to the proposed roof terraces and amenity use thereof shall be restricted to maintenance purposes only.

Reason: To protect the residential amenities of property in the vicinity.

8. Proposals for a development name and numbering scheme and signage proposed for the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

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

9. Details of all security shuttering, lighting and signage shall be as submitted to and agreed in writing with, the planning authority prior to occupation of the development.

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

10. 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.

11. Prior to the opening/occupation of the development, a Mobility Management Strategy (including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns) 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. Details may include the 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. The interim or temporary strategy, where applicable, should reflect the requirements of DMURS Interim Advice Note – Covid Pandemic Response (May, 2020). The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.

12. Prior to the 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, and walking by residents/occupants/staff employed in the development. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

13. 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

14. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

15. 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 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.

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

16. 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.

17. 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,
- (b) Location of areas for construction site offices and staff facilities,
- (c) Details of site security fencing and hoardings,
- (d) Details of 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,
- (e) Measures to obviate queuing of construction traffic on the adjoining road network,
- (f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,

- (g) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road, cycleway or footpath during the course of site development works,
- (h) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels,
- (i) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1 hertz to 80 hertz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels,
- (j) 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,

- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains,
- (m) 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 interests of amenities, public health and safety.

18. Site development and building works shall be carried out only between the hours of 0700 to 1900 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 residential amenities of property in the vicinity.

19. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

20. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Board Member

Date: 08/10/2020

Paul Hyde