



An  
Bord  
Pleanála

**Board Direction**  
**BD-006852-20**  
**ABP-307656-20**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 03/11/2020.

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 on lands with a zoning objective for residential development;
- b) The policies and objectives in the Dublin City Development Plan 2016-2022 and Ashtown-Pelletstown LAP 2014;
- c) the Rebuilding Ireland Action Plan for Housing and Homelessness 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 (2019);
- e) 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) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;

- g) 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' prepared by the Department of Housing, Planning and Local Government in March 2018;
- h) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- i) the nature, scale and design of the proposed development;
- j) the availability in the area of a wide range of educational, 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 received from the planning authority;
- m) the submissions and observations received;
- n) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment,

it is considered that, subject to compliance with the conditions set out below, the proposed development 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 traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated Natura 2000 Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening 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 in compliance with Section 172 of the Planning and Development Act 2000, an environmental impact assessment of the proposed development, taking into account:

- a) the nature, scale, location and extent of the proposed development,
- b) the environmental impact assessment report and associated documentation submitted with the application,
- c) the submissions from the planning authority, the prescribed bodies and the public in the course of the application, and
- d) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment.

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

### **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 considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. A Construction Environmental Management Plan (CEMP) is the overarching general mitigation relevant to the project design and delivery for the construction stage.

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:

- a) Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.
- b) A significant direct effect on land by the change in the use and appearance of a relatively large area of brownfield land to residential. Given the location of the site within the built-up area of Dublin and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- c) Potential significant effects on soil during construction, which will be mitigated by the re-use of material on the site and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- d) Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- e) Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- f) Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.

- g) A positive effect on the streetscape because the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

The likely significant environmental effects arising as a consequence of the proposed development have, therefore, been satisfactorily identified, described and assessed.

The Board concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

### **Conclusion on Proper Planning and Sustainable Development**

The Board considered that, notwithstanding the recommendation of the planning authority to refuse permission for reasons of height, massing and residential amenity, and having considered the planning authority report at length the proposed development does not warrant a refusal of permission, the development could be granted subject to compliance with the conditions set out below and 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, 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, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Ashtown-Pelletstown Local Area Plan in relation to building height, residential density and dwelling unit mix and the Dublin City Development Plan 2016-2022 in relation to core strategy unit allocation for SDRA 3, dwelling unit mix and floor area standards. The Board considers that, having regard to the provisions of section

37(2)(b)(i),(ii) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Local Area Plan and City Development Plan would be justified for the following reasons 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 within the 'Ashtown-Pelletstown' area identified as a strategic development area in the Dublin Metropolitan Area Strategic Plan (part of the Eastern & Midland Regional Assembly RSES 2019-2031); its location within an area designated as a Strategic Development and Regeneration Area (SDRA 3 – Ashtown-Pelletstown) 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)(ii) of the Planning and Development Act 2000 (as amended):

The conflicting objectives between the Dublin City Development Plan 2016-2022 and the Ashtown-Pelletstown Local Area Plan in relation to building height objectives for the application site.

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 27, 33 and 35), the 'Dublin Metropolitan Area Strategic Plan' (in particular the provisions relating to 'Ashtown-Pelletstown'), the 'Urban

Development and Building Height Guidelines' (in particular section 3.2, Specific Planning Policy Requirement 3 and Specific Planning Policy Requirement 4), 'Sustainable Urban Housing: Design Standards for New Apartments' (in particular section 2.16 - 2.22 and Specific Planning Policy Requirement 1 and 2) and the 'Guidelines for Sustainable Residential Developments in Urban Areas' issued 2009 (in particular section 5.8).

## 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, such issues may be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 17 of the Environmental Impact Assessment Report 'Summary of Mitigation Measures', shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

3. The proposed development shall be amended as follows:
  - a) Block 1 first floor, western elevation, opaque glazing or similar shall be used for the curtain wall/advertising retail panels that light the shopfloor, staff facilities and bakery.

- b) Block 1 second floor amenity space, the 1.1 metre glazed balustrade on the western elevation shall be increased to 1.5 metres and fitted with opaque glazing.

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

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

4. Bat roosts shall be incorporated into the site after the conclusion of an appropriately detailed survey to the written satisfaction of the planning authority and in accordance with the details submitted to An Bord Pleanála with this application unless otherwise agreed in writing with the planning authority

**Reason:** To ensure the protection of the natural heritage on the site.

5. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/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. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

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

7. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) 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.

8. Proposals for an estate/street name, 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 estate and street signs, and unit 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 legibility and to ensure the use of locally appropriate place names for new residential areas.

9. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

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

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. The internal road and cycle network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning

authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

12.

- a) 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 the provision of centralised facilities within the childcare facility of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.
- b) The Mobility Management Strategy shall incorporate a Car Parking Management Strategy for the overall development, which shall address the management and assignment of car spaces to residents and uses over time and shall include a strategy for the crèche, retail and car-share parking. Car parking spaces shall not be sold with units but shall be assigned and managed in a separate capacity via leasing or permit arrangements.

**Reason:** In the interest of encouraging the use of sustainable modes of transport, traffic and pedestrian safety.

13. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV 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 revised surface water storage calculations to account for 20% Climate Change as per the “Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment”, 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 interest of public health and surface water management.

15. 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

16. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

17.

- a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.
- c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s) and hedges and identified as 'to be retained' on landscape drawings, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.
- d) No trench, embankment or pipe run shall be located within three metres of any trees and hedging which are to be retained on the site.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage

caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

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

20. 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 compound(s) including area(s) 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 on-site car parking facilities for site workers during the course of construction;
- e) 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;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and 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 interest of amenities, public health and safety.

21. 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.

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. 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.

24. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and

agreed in writing with, the planning authority prior to occupation of the development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

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

**Reason:** In the interest of public health.

26. 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) 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,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) 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.

27. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, 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.

28. 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:** 03/11/2020

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Stephen Bohan