



An
Bord
Pleanála

Board Direction
BD-007778-21
ABP-308827-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 30/03/2021.

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 Bord 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, 2020

- (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) Chief Executive Opinion and associated appendices
- (j) the nature, scale and design of the proposed development,
- (k) the availability in the area of a wide range of social, community and transport infrastructure,
- (l) the pattern of existing and permitted development in the area,
- (m) the planning history within the area, and
- (n) the report of the Inspector and the submissions and observations received,

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban 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.

Appropriate Assessment Screening

The Bord 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 Bord 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 Bord completed an environmental impact assessment of the proposed development, taking into account:

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

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

The Bord agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Bord 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:

- Biodiversity impacts mitigated by proposed landscaping strategy which will use mix of appropriate species that will attract feeding invertebrates; will ensure no invasive species introduced.
- Land, soils, geology and hydrogeology impacts to be mitigated by construction management measures including minimal removal of soil, reuse of excess material within the site; proposals for identification and removal of any possible contamination; management and maintenance of plant and machinery.

- Hydrology impacts to be mitigated by management of surface water run-off during construction; adherence to Construction Management Plan; to attenuate surface water flow and avoid uncontrolled discharge of sediment; diversion of run-off. Operational impacts are to be mitigated by surface water attenuation to prevent flooding.
- Landscape and visual impacts which will be mitigated by the establishment of solid perimeter fencing to restrict views and minimise sense of visual disruption into site during construction works; quality landscaping proposals, together with maintenance regime
- Archaeological impacts which will be mitigated by archaeological monitoring of ground disturbance works.
- Air quality and climate impacts which will be mitigated by dust minimisation plan; locating construction compounds and storage piles downwind (to the east) of sensitive receptors
- Traffic and transportation impacts which will be mitigated by the management of construction traffic; mobility management plan; upgrading of site access junction.
- Noise and vibration impacts which will be mitigated by adherence to requirements of relevant code of practice; location of noisy plant away from noise sensitive locations; noise control techniques; quality site hoarding to act as noise barrier
- Microclimate-wind impacts which will be mitigated by use of landscaping; provision of wind screens
- Material Assets-Services impacts which will be mitigated by consultation with relevant service providers; adherence to relevant codes of practice and guidelines; service disruptions kept to a minimum
- Material Assets-Waste impacts which will be mitigated by preparation of site specific C&DWMP

The Bord completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report and subject to compliance with the conditions set out below, the effects on the

environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Bord adopted the report and conclusions of the Inspector.

Conclusions on Proper Planning and Sustainable Development

The Bord 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 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 Bord considered that a grant of permission that would materially contravene section 16.10.1 of the Dublin City Development Plan 2016-2022, which applies to the site, would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, having regard to:

- (a) SPPR 3 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, issued in December 2020 which sets minimum apartment floor area of 37 square metres for studio units and
- (b) SPPR 8 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued in December 2020 which states no restriction on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise and that the requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes; with which the proposed development would comply.

The Bord considered that a grant of permission that could materially contravene section 16.7.2 of the Dublin City Development Plan 2016-2022 in terms of height would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, having regard to:

(a) The proposed development is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase delivery of housing set out in the Rebuilding Ireland Action Plan for Housing and Homelessness 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. The location of the subject site within SDRA 6 of the operative City Development Plan, an identified strategic development and regeneration area that has substantial development capacity is also noted.

(b) It is considered that permission for the proposed development should be granted having regard to Government Policies as set out in the Project Ireland 2040 National Planning Framework in particular objectives 13 and 35 and the Urban Development and Building Height Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 in particular Specific Planning Policy Requirement 1 and Specific Planning Policy Requirement 3.

In accordance with section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Bord considered that the criteria in section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended was satisfied for the reasons and considerations set out in the decision.

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

Reason: In the interest of clarity.

2. The 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 22 of the EIAR 'Schedule of Environmental Commitments', 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 following details shall be submitted to, and agreed in writing with, the planning authority, prior to the commencement of development:

(i) Further details in relation to the use of the amenity space located at Level 00 of Block B3C3,

(ii) Details of greening of flat or gently sloping roofs,

(iii) Details relating to management of the proposed cultural building.

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability.

4. Prior to commencement of development, revised details shall be submitted to and agreed in writing with the planning authority in relation to the proposed cultural building, which shall be made available for use by the residents of the development and the wider community. Any proposed change of use from cultural building shall be subject of a separate application for planning permission.

Reason: In the interest of ensuring adequate provision of community space.

5. The development hereby permitted shall be for Build to Rent units which shall operate in accordance with the definition of Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020 and be used for long term rentals only. No portion of this development shall be used for short term lettings.

Reason: In the interest of the proper planning and sustainable development of the area and in the interest of clarity.

6. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

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

7. Prior to expiration of the 15 year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build to Rent scheme. Any proposed amendment or deviation from the Build to Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

8. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to and agreed in writing with the planning authority prior to commencement of any development.

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

9. Drainage arrangements including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

10. Prior to commencement of development, the developer shall enter into water and or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

11. Prior to the occupation of the development, a schedule of proposed uses for the proposed ground floor retail and commercial units shall be submitted to and agreed in writing with the planning authority. In addition, prior to the occupation of these units, details of openings, signage, shopfronts, layout and window treatment of the subject unit shall be agreed in writing with the planning authority.

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

12. (a) The developer shall make available a single document of the mitigation measures and recommendations relating to biodiversity that are outlined in the various documents that form part of the application, for the written agreement of the planning authority. This document shall include a programme for the implementation of the mitigation measures including any monitoring requirements by a suitably qualified ecologist shall accompany this document for written agreement at least five weeks in advance of site clearance works.

- (b) All demolition works shall take place outside of the bird nesting season (1st March to 31st August).
- (c) Prior to commencement of development, details of the locations of two appropriately placed, bat boxes shall be submitted for the written agreement with the planning. An installation and maintenance plan shall be confirmed in writing with photographic evidence of same to the planning authority.
- (d) A revised planting plan shall be submitted for the written agreement of the planning authority, to provide foraging sites for bats as part of the planting scheme.
- (e) Prior to commencement of development, details of locations of swift bricks or swift boxes shall be agreed with the planning authority prior to the commencement of any development on site. An installation and maintenance plan shall be confirmed in writing with photographic evidence of same to the planning authority.

Reason: in the interests of protection of biodiversity.

14. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and the underground car park 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 (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. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. In particular, the following information shall be submitted to the planning authority for their written approval, prior to the commencement of any works on site:

- (a) Final Mobility Management Plan,
- (b) Details of works to the public road to facilitate the proposed development. All works to the public roads and footpaths shall be completed to taking in charge standards and shall be to the satisfaction of the planning authority,
- (c) Pedestrian crossing facilities shall be provided at all junctions,
- (d) The materials used in any roads and footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works,

(e) 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.

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

15. Prior to the opening or 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 and 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 Design Manual for Urban Roads and Street 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.

16. A minimum of 10% of all car parking spaces shall be provided with electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points or stations at a later date. Detailed proposals to comply with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

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

17. (a) Pedestrian access to the public open space areas shall be permanent, open 24 hours a day, with no gates, security barrier or security hut at the entrance to the development or within the development in a manner which would prevent pedestrian access between the areas identified above,

(b) Prior to the occupation of any residential unit, the developer shall ensure that the cultural building, public realm areas and new routes, as outlined in the site layout plan and landscape drawings shall be fully completed and open to the public.

Reason: In the interest of social inclusion and to secure the integrity of the proposed development including open spaces.

18. The landscaping scheme as submitted to An Bord Pleanála shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

The developer shall retain the services of a suitably qualified Landscape Architect throughout the duration of the site development works. The developer's Landscape Architect shall certify to the planning authority by letter his or her opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development hereby permitted.

Reason: In the interests of residential and visual amenity.

19. 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 addition, details of a maintenance strategy for materials within the proposal shall also be submitted for the written agreement of the planning authority, prior to the commencement of any works on site. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. Render shall not be used as an external finish.

Reason: In the interest of visual amenity and durability.

20. 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.

21. 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.

22. Prior to the commencement of the development the developer shall agree in writing with the planning authority, details in relation to all crane operations, with a minimum of 30 days prior notification of their erection. Details of a suitable marking and lighting scheme shall also be agreed, together with additional information regarding crane type (tower, mobile), elevation of the highest point of crane, dimensions of crane, ground elevation and location co-ordinates. The planning authority may consult, as required, with the Irish Aviation Authority.

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

23. (a) Commercial units shall not be amalgamated or subdivided, unless authorised by a further grant of planning permission,
- (b) No external security shutters shall be erected for any of the commercial premises other than at services access points unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of clarity.

24. No advertisement or advertisement structure other than those shown on the plans and particulars 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.

25. Proposals for a development name, office and commercial unit identification and numbering scheme and associated signage 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.

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

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

27. 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.

Reason: In the interests of visual and residential amenity.

28. 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.

29. 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.

30. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

31. 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 hours of working, noise management measures and off-site disposal of construction and demolition waste.

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

33. 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.

33. Prior to the commencement of any works on site, the developer shall agree in writing with the planning authority the exact location of all structures on site, so as to ensure the appropriate safeguarding of Iarnród Éireann infrastructure.

Reason: In the interest of safety and to ensure an orderly form of development.

34. 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.

35. 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: 30/03/2021

Paul Hyde