



An
Bord
Pleanála

Board Direction
BD-007815-21
ABP-308877-20

The submissions on this file and the Inspector's report were considered at Board meetings held on the 30th of March 2021 and on the 1st of April 2021.

At the meeting held on the 30th of March 2021, the board identified a discrepancy in the report of the Inspector and decided to defer consideration of this case and to request an amended report.

At a meeting held on the 1st of April 2021, the Board considered the amended report and 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 location of the site in the established urban area of Blackrock in an area zoned A 'To protect and/or improve residential amenity';
- (b) the policies and objectives of the Dun Laoghaire Rathdown County Development Plan 2016-2022;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) 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;

- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018 and particularly Specific Planning Policy Requirement 7 and 8;
- (g) 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
- (h) Architectural Heritage Protection- Guidelines for Planning Authorities 2011;
- (i) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (j) The pattern of existing and permitted development in the area;
- (k) The planning history of the site and within the area;
- (l) The submissions and observations received;
- (m) The Chief Executive Report from the Planning Authority; and
- (n) The report of the Inspector,

The Board 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, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban 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 Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment 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 other sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this

conclusion, specific regard was had to the Chief Executive Report from the Planning Authority.

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 plan for the area, a grant of permission could materially contravene the Dun Laoghaire Rathdown County Development Plan 2016-2022 in relation to building height, housing mix, public open space and green roof provision and objective ES7 of the Blackrock Local Area Plan 2015-2021 in relation to the removal of the existing sycamore tree at the development site. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the County Development Plan and Local Area 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) 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.

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

There are conflicting objectives in the Dun Laoghaire Rathdown County Development Plan 2016-2022 in relation to the provision of green roof area, as required by Appendix 16 of the development plan. In the case of the development site, the required quantum of green roof area is not compatible with achieving the optimum residential density for this zoned and serviced site, located at a central/accessible location on a public transport corridor, in view of development plan

policies RES3 and RES4, which seek to achieve higher residential densities in existing built-up areas.

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

Permission for the development should be granted having regard to guidelines under section 28 of the Act and the National Planning Framework, specifically:

- In relation to the matter of building height, SPPR 3 of the Building Height Guidelines which states that where a development complies with the Development Management Criteria in section 3.2 of the Guidelines, it may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise and national policy in Project Ireland 2040 National Planning Framework (in particular objectives 13 and 35). An assessment of the proposed development was carried out to determine that the development conforms with the development management criteria in section 3.2 of the Urban Development and Building Height Guidelines.
- In relation to the matter of housing mix, SPPR 1 of the Design Standards for New Apartments Guidelines for Planning Authorities. An assessment of the proposed development was carried out to determine that the development conforms with the requirements of SPPR 1.
- In relation to the matter of public open space provision, Appendix 1 of the Design Standards for New Apartments Guidelines for Planning Authorities. An assessment of the proposed development was carried out to determine that the proposed development conforms with the requirements of Appendix 1 in relation to communal amenity space.

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

Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan, specially PL06D.248456, which permitted the removal of the

existing sycamore tree at the development site on 19th October 2017, subsequent to the adoption of the Blackrock Local Area Plan 2015-2021.

In not agreeing with the Inspector's recommendation not to omit unit B48, the Board accepted the view of the planning authority and considered that the omission of unit B48 would mitigate the impact of the proposed roof profile when viewed from the south, and that the modification would increase the area of green roof to be provided in line with the County Development Plan policy on green roof provision.

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 applicant shall submit the following particulars to the planning authority for agreement in writing prior to the commencement of development:
 - (a) Proposals for noise mitigation measures at the access ramp to the basement car park.
 - (b) A detailed structural report and construction methodology report relating to the treatment of historic material and boundary walls at the development site, including detailed proposals for the retention of the structural integrity of the boundary walls and to ensure their protection during construction, also specifications to appropriately repair and consolidate the masonry and a methodology for guiding the further removal of the surviving concrete pads above the foundations of the original depot buildings. The report shall be prepared and approved by a competent engineer and a Conservation Architect.

Reason: In the interests of residential amenities and in order to ensure the preservation of historic material at the development site.

3. The proposed development shall be amended as follows:

Apartment B48 shall be omitted from Block B.

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

Reason: In the interests of visual and residential amenity.

4. The mitigation measures outlined in the Bat Assessment submitted with this application shall be carried out in full, except where otherwise required by conditions of this permission.

Reason: To protect the environment.

5. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:

- (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 materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.

- (c) All works to public roads/footpaths shall be completed to the satisfaction of the planning authority.

- (d) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii.
- (e) Cycle tracks within the development shall be in accordance with the guidance provided in the National Cycle Manual.
- (f) The design, layout, marking demarcation and security provisions for the cycle parking provision at basement and ground levels shall be in accordance with the detailed requirements of the planning authority.
- (g) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.
- (h) 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.
- (i) The applicant shall submit a Mobility Management Plan and details of car parking design, layout and management to the planning authority for agreement in writing prior to the commencement of development.
- (j) The applicant shall liaise with DLRCC Traffic Section in order to attain the required specification, permits and process to complete the proposed changes to road markings on Newtown Avenue.

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

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

6. 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.

7. 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.

8. Prior to commencement of the development, details of all areas of boundary treatment, green walls, play equipment and roof terrace planting, shall be submitted to, and approved, by the planning authority. Boundaries and areas of communal open space shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscaping shall include a suitable replacement for the existing Sycamore tree at the development site, which shall be agreed in writing with the planning authority prior to the commencement of development. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes. Units nos. A10, A11, A12, A13, A14 and A02 shall have direct access to the adjoining area of communal amenity space to the west of Block A.

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

9. Access to the roof area at first floor level of Block A shall be restricted to maintenance purposes only. Glazed screens to a height of 2m shall be provided on the eastern and western sides of the roof terrace at Block B. Access to the roof terrace at Block B shall be restricted to residents of the scheme between the hours of 7 am and 10 pm Monday to Sunday.

Reason: In the interests of residential amenities.

10. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation. The schedule shall include specific provision for the green wall on Block B.

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

11.

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

(b) Prior to the commencement of the development, details shall be submitted and approved by the Planning Authority of the surface drainage system, flow control device and green roofs, to the satisfaction of the Planning Authority.

(c) 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 interest of public health and surface water management.

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

Reason: In the interest of public health.

13. 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.

14. 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.

15. 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) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
 - (i) 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,
 - (j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
 - (k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains,

(l) 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.

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

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

17. Construction waste shall be managed in accordance with a final construction waste 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.

18. 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 6 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.

19. 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.

20. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Strategy, 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 residential unit.

Reason: In the interests of amenity and public safety.

21. Proposals for a development name and block 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.

22. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider.

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.

23. 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.

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 (For Dun Laoghaire-Rathdown Co Co refer to SCSl Price Tender Index). 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 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.

Board Member

Date: 06/04/2021

Michelle Fagan