

An  
Bord  
Pleanála

**Board Direction**  
**BD-008942-21**  
**ABP-309217-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/08/2021.

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 Board had regard to the following:

- (a) the policies and objectives in the Dublin City Development Plan 2016-2022;
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (c) 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;
- (d) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2020;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (f) the nature, scale and design of the proposed development;
- (g) the pattern of existing and permitted development in the area,



- (h) the submissions and observations received and
- (i) the report of the Inspector,

### **Appropriate Assessment Screening**

The Board considered the Appropriate Assessment Screening report and supporting information, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances between the development site and any European sites resulting in no potential for direct effects to any European site, and had regard to the source-pathway-receptor model between the proposed works and the European sites, and the Inspectors Report which it adopted. The Board concluded that on the basis of the information on file, which it considered adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European sites identified within the zone of influence of the subject site in view of these site's conservation objectives and a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment**

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

- The nature, scale and extent of the proposed development,
- The Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- The submissions received in the course of the application,
- 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 is satisfied that the information contained in the



Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and 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 application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's decision.

### **Reasoned Conclusion on 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 and the results of the examination set out in the Inspector's Report. 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. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- In terms of population and human health, there are potential for impacts in terms of roads and traffic issues as well as dust and noise arising from the demolition and construction phase of the development affecting air quality and residential amenity. These impacts are considered to be temporary and short term. Mitigation measures are proposed.

There will be a positive impact on population with regard to the creation of a number of jobs.

The development will increase the availability of housing stock in Dublin City Centre.



- In terms of biodiversity, the development will give rise to the loss of a nesting opportunity for Herring Gull, identified as a high conservation concern, and the Lesser Black-backed Gulls, identified as medium conservation concern. At least eight pairs of Herring Gulls were found to be nesting on the roof of the buildings to be demolished. There will be temporary disturbance to fauna, including birds during the construction phase while the operational phase will give rise to new potential nesting sites on new areas of flat roof.
- Effects on the receiving land, soil and geology or water environments are unlikely to arise given the city centre location and the brownfield nature of the site.

The Environmental Impact Assessment Report sets out the mitigation measures which will be implemented as part of the Construction and Environmental Management Plan.

- In terms of noise and vibration, during the construction phase, noise impacts may arise from demolition and construction activities. There will also be increased construction vehicular movement in the wider area and on the local road network. Mitigation measures are proposed in terms of managing the impact of noise and vibration.
- In terms of Visual and Landscape Impacts, the proposed development will, if permitted, be located within the built-up area of Dublin city centre. The wider area has a variety of building types and heights, and the proposed development will represent a significant introduction to this area in terms of height, density, scale and massing. There will be an acceptable impact on the urban landscape locally.

In conclusion, having regard to the above identified significant effects, the Board was satisfied that the proposed project, subject to the implementation of mitigation measures as described in the Environmental Impact Assessment Report, would not have any unacceptable direct or indirect impacts on the environment.



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

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, would not affect the character of the Protected Structures in the area and would be acceptable in terms of pedestrian, cyclist and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that a grant of permission that could materially contravene the maximum building height as set out in Section 16.7.2 of the Dublin City Development Plan 2016-2022 would be justified in accordance with sections 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, having regard to -

- Objective 13 of the National Planning Framework 2018-2040
- Specific Planning Policy Requirement 1, Specific Planning Policy Requirement 3 and section 3.2 of the Guidelines for Planning Authorities on Urban Development and Building Height 2018 published under Section 28 of the Planning and Development Act 2000,

which state policy in favour of greater density and height at central accessible locations such as the current application site, subject to performance and development management criteria with which the proposed development would comply.

## **Conditions**

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 23<sup>rd</sup> day of October 2020, 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. The proposed development shall be amended as follows:

- (a) The overall height of Block C shall be reduced by one floor with the proposed fourth floor to be omitted.
- (b) The third floor of Block C shall be set back from the western elevation of the building by 10.2 metres, such that there shall be no office space provided to the west of the stairs at this level.
- (c) The proposed curtain glazing on the northern elevation of the first and second floors of Block C shall be omitted.
- (d) Glass screens of 1.8 metres in height shall surround the proposed Park Lounge on the fourth floor of Block D and shall be opaque on the western and southern sides.

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 interest of visual amenity and the protection of the character and setting of the Saint Kevin's Church and Graveyard recorded monument, in the interests of residential and visual amenity and the proper planning and sustainable development of the area.

3. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this Order.

**Reason:** In the interest of orderly development.

4. The Build-to-Rent units hereby permitted shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in March 2020 and shall 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.

5. Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the Management Company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

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

6. Prior to the commencement of development, the developer 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.

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

7. Prior to expiration of the 15-year period referred to in the Covenant, the developer 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. Details and samples of the materials, colours and textures of all the external finishes to the proposed development including external shopfronts, signage, pavement finishes and bicycle stands shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

9. 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.

10. Proposals for a development name, and for residential unit/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. The proposed name shall be based on local historical or topographical features, or other alternative acceptable to the planning authority, and shall be in both Irish and English. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

11. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of orderly development and the visual amenities of the area.



12. 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.

13. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Full details of the proposed green roofs, including construction and maintenance plan, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development unless otherwise stated.

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

14. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.

(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

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

15. 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.



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

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

17. Site development and building works shall be carried out only between 0700 to 1900 hours Mondays to Fridays inclusive, between 0800 to 1400 hours 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 residential amenities of property in the vicinity.

18. 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 noise management measures and offsite disposal of construction/demolition waste.

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

19. 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 interests of public safety and residential amenity.



20. Prior to the opening 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 car-pooling 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 development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

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

21. The developer shall comply with the following Transportation Planning Division requirements:

(a) Prior to commencement of the development, the developer shall submit revised floor plans for the written agreement of the planning authority, detailing bicycle lifts and/or a separate bicycle ramp in addition to the bicycle stair ramp/channel to provide improved access to the bicycle parking area for all users including cargo bikes.

(b) 15 number car share spaces for the exclusive use of residents or commercial occupants of the development, 5% accessible parking spaces and 10% electrical vehicle spaces shall be provided. All car parking spaces shall be ducted and be future proofed for electrical charging. A revised car parking layout and Car Parking Management Strategy shall be submitted to the planning authority for written agreement prior to commencement of the development.

(c) Prior to commencement of the development, the developer shall contact the Environment and Transportation Department to agree in writing all works to the public road network including footpaths, vehicular entry treatments, pedestrian crossings, loading/parking bays, public lighting, and works to the Kevin Street and New Bride Street junction. Materials proposed in public areas shall be in accordance with the document 'Construction Standards for Roads and Street Works in Dublin City Council'. All works shall be at the developer's expense including fees applicable for the removal of a Pay and Display permit parking bay.



(d) Prior to commencement of the development, the developer shall submit for the written agreement of the planning authority, revised details for the proposed entry treatment and provision of bollards on Church Lane South. The revised details shall allow for the appropriate vehicular access to adjacent properties along Church Lane South.

(e) 1,708 number bicycle parking spaces shall be provided, consisting of 700 number residential spaces and 1008 number commercial spaces. A minimum of five number spaces shall be allocated for cargo bicycle parking and these shall be Sheffield style stands separated by an appropriate distance in order to accommodate a parked cargo bike. Electrical charging facilities for bikes at a ratio of 5% shall be provided. Cycle parking shall be secure, conveniently located, sheltered and well lit. Shower and changing facilities shall also be provided as part of the commercial development. Key/fob access shall be required to bicycle compounds/areas. The design of all resident/commercial and visitor cycle parking stands at basement and ground level shall allow both wheel and frame to be locked.

(f) Car parking spaces shall be permanently allocated to the proposed use and shall not be sold, rented or otherwise sub-let or leased to other parties.

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

22. 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 relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation and demolition 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.

23. Prior to the commencement of development, an archaeological method statement for impact mitigation (including temporary and enabling works) shall be provided for the written agreement of the City Archaeologist. The method statement shall contain:

- (a) A detailed archaeological and historical desktop study of the subject site, to include industrial heritage.
- (b) A copy of the license application to the National Monuments Service.
- (c) Details of the proposed construction methodology, including the phasing of any archaeological excavation, and the location of site compound.
- (d) The methodology for the appropriate conservation and structural repair of the historic northern graveyard boundary

**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.

24. 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. Such lighting shall be provided prior to the making available for occupation of the development.

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



25. 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.

26. 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.



27. 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.

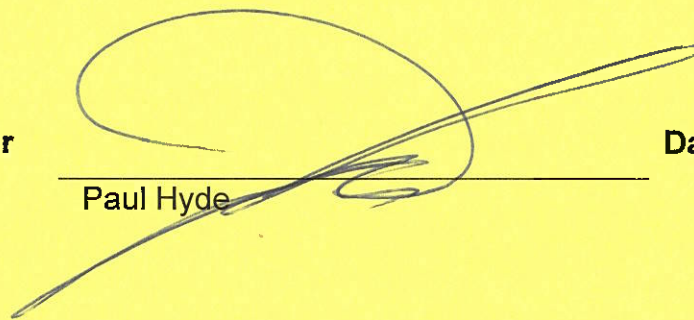
28. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Cross City Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition 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.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.



**Note :** In deciding not to accept the inspector's recommendation to omit units D-03-05 and D-03-06 on the 3<sup>rd</sup> floor level of Block D fronting onto Camden Row and the reduction in size of the Park Lounge ( 4<sup>th</sup> floor level on the submitted plans) the Board was satisfied that subject to the conditions as set out above, the proposed development would not lead to overlooking of adjoining properties and would not seriously injure the visual or residential amenities of the area and would enhance the streetscape of Camden Row through the replacement of a surface parking area with an appropriately scaled infill structure which will bookend the terrace and compliment the former school building to the west. (RPS Ref. 1140).

**Board Member**

A handwritten signature in blue ink, consisting of a large loop followed by a series of horizontal strokes, written over a horizontal line.

Paul Hyde

**Date:** 20/08/2021