



An
Bord
Pleanála

Board Direction
BD-008582-21
ABP-309658-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 22/06/2021.

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:

Having regard to the following:

- (a) the policies and objectives set out in the NPF and EMRA/RSES
- (b) the policies and objectives set out in the South Dublin County Development Plan 2016-2022 (as varied).
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (d) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (e) the Design Manual for Urban Roads and Streets (DMURS), 2013, as amended
- (f) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (g) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020

- (h) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) the planning history of the site and within the area,
- (m) the submissions and observations received,
- (n) the report of the Chief Executive of South Dublin County Council, and
- (o) the report of the Inspector

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 site, the information for the Screening for Appropriate Assessment 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 an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening 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 sensitive location specified in article 299C (1) (v) 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 the proposed development is, apart from the building height parameters, broadly compliant with the current South Dublin County Development Plan 2016-2022 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the Plan with respect to building height limits. The Board considers that, having regard to the provisions of section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the development plan would be justified for the following reasons and considerations:

- (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 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; and due to the identification of this area as one of a number of "Strategic Development Areas and Corridors" within the Regional Spatial and

Economic Strategy for the Eastern and Midlands Regional Assembly Area (Chapter 5 Metropolitan Area Strategic Plan).

- (b) 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 13 and 35) and the Urban Development and Building Height Guidelines for Planning Authorities, in particular SPPR1 and SPPR3.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i) and (iii) of the 2000 Act were satisfied for the reasons and considerations set out in the decision.

Furthermore, 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 and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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, or as otherwise stipulated by conditions hereunder, 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 proposed development shall be amended as follows:

(a) Block B shall be amended in accordance with the following requirements:

- The proposed vehicular underpass and apartment over (no's B.1.7, B.2.18, B.2.19, B.3.30, B.3.31, B.4.41, B.4.42, B.5.48) shall be omitted and the western building line of Block B shall set back in line with that of Block A. This will involve a reconfiguration of the proposed plant room and substations at lower ground level.
- Fenestration (windows) shall be provided in the western elevations of the resulting end units no. B.0.2, B.1.6, B.1.8, B.2.17, B.2.20, B.3.29, B.3.32, B.4.40, B.4.43, B.5.49 to provide for dual aspect units.

(b) Block A shall be amended in accordance with the following requirements:

- Obscure glazing shall be added to windows in the northern elevation of Block A (Unit no's A1.2.15, A1.2.16, A1.3.27, A1.3.28, A1.4.39, A1.4.40, A1.5.51 and A1.5.52) where they are within 22 metres of a directly opposing window in Block B.

(c) The western access street shall be extended to the turning area to the north of Block B to include a vehicular carriageway of 4.8 metres (min), parallel car parking bay containing 4 no. spaces and 2 meter wide (min) footpath.

(d) A detailed landscaping proposal shall be submitted for the western access road to include hard and soft landscaping (including street trees) along the street.

(e) The proposed linear park along the northern boundary and the associated pathways shall extend to the north-western site boundary and provide for a future connection to REGEN zoned lands to the west. The 4 no. visitor car parking spaces to the north of Block B shall be omitted. The vehicular turning area shall have a shared surface to give the impression of pedestrian / cycle priority in this area.

- (f) The proposed bike lane along the Ballymount Road Lower frontage shall be replaced with a footpath that ties into the existing footpaths on either side of the site.

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 residential amenity and visual amenity and to ensure compliance with the urban design criteria in the Urban Design Manual accompanying the Sustainable Residential Development in Urban Areas Guidelines 2009 and with the car parking standards in the Design Manual for Urban Roads and Streets 2013.

3. Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment, Outline Construction & Waste Management Plan and External Noise Impact Analysis (use of acoustic rated ventilation grills on facades facing south and west) 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.

4. Prior to commencement of any works on site, the developer shall submit and agree in writing with the planning authority a comprehensive Invasive Species Management Plan, which shall include detailed measures for the elimination of Giant Hogweed and Buddleia, on the site and dispose of any contaminated material by either its destruction or burial in sealed cells on site, or its removal off site under licence from the National Parks and Wildlife Service of the Department of Housing, Local Government and Heritage for its disposal or destruction in an approved facility.

Reason: To ensure the eradication from the development site of invasive plant species and to protect biodiversity.

5. The following details shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development:
 - (a) A detailed materials strategy that include details of materials, colours and textures of all the external finishes to the proposed buildings. The

proposed nap plaster finish shall be omitted in full on principal elevations of Block A (southern, eastern and western elevations) and Block B (northern, eastern and western elevations) and replaced with high quality and durable urban finishes such as brick or other high quality finish. The finishes shall reflect the residential use of the development and include variation in materials / colour / textures to break up the scale of the elevations. A sample panel of the principle finishes to each block shall be erected on site for the consideration of the planning authority. Construction materials and detailing shall be of high quality and shall adhere to the principles of sustainability and energy efficiency and high maintenance detailing shall be avoided.

- (b) Details of a wayfinding through the site to ensure clear and legible access to the principal doorways, parking area, and open spaces.
- (c) Details of daytime public access through the proposed linear amenity area along the northern and eastern site boundaries.
- (d) Details of tie in with the existing public realm within the South Dublin County Council and Dublin City Council administrative areas.

Reason: In the interests of visual amenities, permeability, connectivity and good urban design.

6. No external security shutters shall be erected for any of the communal areas / commercial premises 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 interest of the amenities of the area/visual 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. 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.

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

Reason: In the interests of clarity and public health.

10. Details of works to the public road to facilitate the proposed development shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development. All works to the public roads / footpaths shall be completed to the satisfaction of the Planning Authority.

Reason: In the interests of traffic, cyclist and pedestrian safety and sustainable travel.

11. 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. Prior to commencement of development the developer shall submit the following details to the Planning Authority for written agreement:

- (i) Revised surface water drainage calculations, conveyance and attenuation details (to include SUDS details and details of flow control device) to meet the surface water storage requirements of the development. The maximum discharge rate for surface water shall be Q_{bar} rural or c. 2 litres per second.
- (ii) Prior to commencement of development a Stage 2 – Detailed Design Stage Storm Water Audit shall be submitted to the Planning Authority for written agreement.
- (iii) 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. 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.

13. The site shall be landscaped (and earthworks carried out) in accordance with the detailed scheme of landscaping, which shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development. The scheme shall include provisions for hard and soft landscaping within the site and details of children's play features and boundary treatments.

Reason: In order to ensure the satisfactory completion of the development.

14. (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 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), 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 [shrubs] [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.

15. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, kerbs and the lower ground level car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. 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.

16. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. 65 no. clearly identified car parking space shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission. The 'drop-off' spaces along Ballymount Road Lower shall provide for set down only. 2 no. spaces along the western access street shall be reserved for use by a car club.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and also to prevent inappropriate commuter parking.

17. 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 commercial element of 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.

18. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage 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, 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.

19. Proposals for a development naming and 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.

20. 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 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. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. The cables shall avoid roots of trees and hedgerows to be retained in the site. 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.

22. 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.

23. The management and maintenance of the proposed development following its completion (save for areas that are to be taken in charge) 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.

24. 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.

25. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;

(b) 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; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. The measures detailed in the construction management plan shall have regard to the matters outlined in the submission received from Inland Fisheries Ireland.

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.

26. 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.

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 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.

28. 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 and adjoining the 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.

29. 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.

30. 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


Michelle Fagan

Date: 22/06/2021

