

**An  
Bord  
Pleanála**

**Board Direction  
BD-009076-21  
ABP-309916-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/07/21. It was decided at this meeting to hold a limited agenda oral hearing. Following the oral hearing held on the 3<sup>rd</sup> of September 2021 the original Inspectors report, and a supplementary Inspectors report and all submissions received were considered at a second Board meeting held on 14/09/2021.

The Board decided to grant permission, 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 an area zoned to facilitate enterprise and/or residential-led regeneration.
- (b) the provisions of the National Planning Framework with regard to compact growth and the provision of new homes within existing settlements;
- (c) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031.
- (d) the policies and objectives in the South Dublin County Council Development Plan 2016-2022; and the Tallaght Town Centre LAP 2020).
- (e) the provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016.

- (f) the provisions of 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 (2020);
- (g) 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;
- (h) the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (i) the ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ prepared by the Department of Housing, Planning and Local Government 2020;
- (j) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (k) the nature, scale and design of the proposed development;
- (l) the availability in the area of educational, social, community and transport infrastructure,
- (m) the pattern of existing and permitted development in the area, and the planning history relating to the wider area.
- (n) the Report of the Chief Executive of South Dublin County Council.
- (o) the submissions and observations received.
- (p) the report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to screening for appropriate assessment and environmental impact assessment.

## **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated Natura 2000 Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded, having regard to:

- the nature and scale of the proposed development on fully serviced lands,
- separation from European sites and the intervening land uses,
- the lack of direct connections to European Sites with regard to the Source-Pathway-Receptor model,

that the proposed development, individually or in-combination with other plans or projects, would not be likely to have a significant effect on South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), 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, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

- c) The location of the site on lands governed by the REGEN zoning objective, 'to facilitate enterprise and/or residential-led regeneration.', in the South Dublin County Development Plan 2016-2022,
- d) The existing use on the site and pattern of development in surrounding area,
- e) The planning history relating to the site and wider area,
- f) The availability of mains water and wastewater services to serve the proposed development,
- g) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended),
- h) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Demolition Waste Management Plan.

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

### **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 accepted the findings of the Inspector further to the oral hearing held on 03/09/21 and was satisfied that as a result of the oral hearing proceedings and the evidence presented therein, that there is sufficient information before the Board to conclude that there is sufficient capacity in the water supply network to facilitate a connection to the proposed development and that there is sufficient certainty with regard to the nature and timing of works to overcome capacity constraints in the wastewater network and facilitate a connection to the proposed development.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Tallaght Town Centre Local Area Plan 2020

The Board considered that the proposed development is, apart from the building height and plot ratio parameters, broadly compliant with the current South Dublin County Council Development Plan 2016-2022 and the Tallaght Town Centre Local Area Plan 2020 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 or Local Area Plan, it would materially contravene the Local Area Plan with respect to building height limits and plot ratio. 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 South Dublin County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- With regard to S.37(2)(b)(i), the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and delivers on the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.
- With regard to S.37(2)(b)(iii), the proposed development in terms of height is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13 and NPO 35, and is in compliance with the Urban Development and Building Height Guidelines, in particular SPPR3

In deciding not to accept the Inspector's recommendation to refuse permission in respect of **Reason No 1**, the Board was satisfied that notwithstanding that the proposed development would materially contravene the Local Area Plan with respect to building height limits and plot ratio, it considered that, having regard to the provisions of National Policy and Regional Policy as set out above and to the nature and scale of development proposed, it is satisfied that the material contravention of the plan in this regard would be justified and, furthermore, that such contravention of the plan would not set an undesirable precedent for further development in the surrounding area and in fact, would encourage it. In addition, the Board was satisfied that the proposed development would align in all other respects with a coherent, plan-led approach to the redevelopment and regeneration of this area.

In deciding not to accept the Inspector's recommendation to refuse permission in respect of **Reason No 2** , the Board considered that , having regard to the marginal nature the deviations from the minimum room sizes and room widths in some instances, subject to compliance with Condition no 3 as outlined below, the proposed development can adequately achieve the applicable standards of residential amenity required in the proposed development, having regard in particular to the required Minimum Floor Areas and Standards set out in Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020).

In deciding not to accept the Inspector's recommendation to refuse permission in respect of **Reason No 3** , the Board accepted the findings of the Inspector further to the oral hearing held on 03/09/21 and the addendum Inspectors report that there is sufficient information before the Board to conclude that there is adequate capacity in the water supply network to facilitate a connection to the proposed development and that there is sufficient certainty with regard to the nature and timing of works to overcome capacity constraints in the wastewater network and facilitate a connection to the proposed development.

### **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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings / buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority / An Bord Pleanála 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

3. The proposed development shall be amended as follows:

All apartments, including bedrooms, kitchens and living rooms shall the minimum standards of accommodation set out in the Sustainable Urban Housing: Design Standards for New Apartments (2020)

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

4. Prior to the commencement of development, the developer shall submit 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 fifteen 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.

5. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit 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



6. 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.

7. Proposals for an estate / street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

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

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

9. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

(b) Prior to the commencement of development, details of the design of the pedestrian crossing of Stocking Avenue along the frontage of the site in

accordance with the principles set out in the Design Manual for Urban Roads and Streets (DMURS) shall be submitted to and agreed in writing with the planning authority.

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

10. (a) Prior to the first occupation of the development, a finalised 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.

(b) The Mobility Management Strategy shall incorporate a Car Parking Management Strategy for the overall development, which shall address the management and assignment of car spaces to residents and units over time and shall include a strategy for the community use and any car-share parking. Car parking spaces shall not be sold with units but shall be assigned and managed in a separate capacity via leasing or permit arrangements.

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

11. Bicycle parking spaces shall be provided within the site in accordance with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020). Revised details of the number, layout and design, marking demarcation and security provisions for these spaces shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

12. 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

13. 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.

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

(b) occupation of the development would be subject to completion of the identified capital maintenance works to address groundwater infiltration into the downstream 600mm sewer.

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

15. 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.

16. The site shall be landscaped in accordance with the scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development. The landscaping scheme shall be amended to incorporate the following:

(a) Measures to satisfactorily define and delineate communal residential amenity space from areas of public open space.

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 three 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.

**Reason:** In the interest of residential and visual amenity

17. 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) A Construction Traffic Management Plan providing details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.

- f) Measures to obviate queuing of construction traffic on the adjoining road network.
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any footpath, cyclepath or public road during the course of site development works.
- i) Details of appropriate mitigation measures for noise, dust and vibration, and the location and frequency of monitoring of such levels.
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- m) A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

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 shall be submitted to, and agreed in writing with, the planning authority not later than six 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. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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

20. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 0800 – 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

21. 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

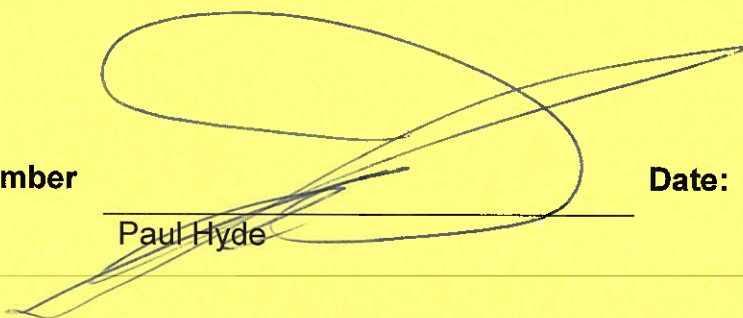
22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, 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.

23. 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**

A large, stylized handwritten signature in blue ink, appearing to be 'Paul Hyde', is written over a horizontal line. The signature is highly cursive and loops around itself.

Paul Hyde

**Date:** 14/09/2021