



An  
Bord  
Pleanála

**Board Direction**  
**BD-009163-21**  
**ABP-310567-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28/09/2021.

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 location of the site on lands with a zoning objective for residential development in the Dublin City Development Plan 2016-2022 and its location within the Heuston and Environs Strategic Development Regeneration Area (SDRA7) ,
- (b) the nature, scale and design of the proposed development and those issues relating to the contravention of Section 16.10.1 of the Dublin City Development Plan 2016-2022 in relation to apartment mix and floorspace,
- (c) the National Planning Framework, Project 2040,
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (e) the Eastern & Midland Regional Assembly RSES 2019-2031.
- (f) the Design Manual for Urban Roads and Streets (DMURS), 2019
- (g) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009



- (h) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (i) the Urban Development and Building Height Guidelines for Planning Authorities, 2018
- (j) Architectural Heritage Protection, Guidelines for Planning Authorities, 2011
- (k) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (l) the nature, scale and design of the proposed development,
- (m) the availability in the area of a wide range of social, community and transport infrastructure,
- (n) the pattern of existing and permitted development in the area,
- (o) the report of the Chief Executive of Dublin City Council;
- (p) the submissions and observations received, and
- (q) the report of the Inspector.

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

### **Appropriate Assessment Screening**

The Board accepted and adopted the screening assessment carried out by the Inspector and the conclusion in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives. The Board was satisfied 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 following European sites:

- Baldoyle Bay Special Area of Conservation (site code 000199),
- Howth Head Special Area of Conservation (site code 000202),
- Rockabill to Dalkey Island Special Area of Conservation (site code 003000),
- Malahide Estuary Special Area of Conservation (site code 000205),
- Wicklow Mountains Special Protection Area (site code 004040),
- Baldoyle Bay Special Protection Area (site code 004016),
- Malahide Estuary Special Protection Area (site code 004025),
- Wicklow Mountains Special Area of Conservation (site code 002122),
- Glenasmole Valley Special Area of Conservation (site code 001209) and
- Rye Water Valley/Carton Special Area of Conservation (site code 001398)

in the light of their conservation objectives, having regard to the nature of the proposed development and the distances from the site to these European sites.

### **Appropriate Assessment Stage 2**

The Board completed an Appropriate Assessment 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 Natura Impact Statement submitted with the application, and the Inspector's report and submissions on file. In completing the Appropriate Assessment, the Board adopted the report of the Inspector and concluded that, subject to the implementation of the proposed mitigation measures contained in the Natura Impact Statement, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the relevant European sites:

- North Bull Island Special Protection Area (site code 004006);
- South Dublin Bay and River Tolka Estuary Special Protection Area (site code 004024);



- South Dublin Bay Special Area of Conservation (site code 000210) and
  - North Dublin Bay Special Area of Conservation (site code 000206),
- or any other European site, in view of the site's conservation objectives.

## **Environmental Impact Assessment**

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

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

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

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

### **Reasoned Conclusions on Significant Effects**

The Board considered and agreed with the Inspector's reasoned conclusions that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Traffic and transportation impacts: The development will give rise to short-term construction traffic impacts, mitigated by traffic management and other



environmental considerations in the CEMP. The upgrade of pedestrian and cycle routes will provide a long-term positive impact.

- Air Quality and Climate: Short term negative impacts on the air quality from construction will be mitigated by the use of good practice construction methods and the implementation of a CEMP
- Noise & Vibration during the construction phase will be negative and short term and mitigated by compliance with all best practice construction methods such as noise restricting plant, restriction on construction hrs and liaison with the public.
- Biodiversity impacts: No significant negative impacts will occur on any areas identified for local or national protection and measures to protect the water quality of the River Liffey will mitigate against any impacts on the aquatic environment or habitats with any European Sites.
- Archaeology, Architecture and Cultural Heritage: The potential for short term negative impact on any archaeology will be mitigated through monitoring of groundworks during construction. The impact on the character and setting of the protected structures on the adjoining site will be mitigated by the buildings high quality architectural style and finishes.
- Precautionary measures to prevent any contamination of water courses and other measures in the CEMP will prevent any significant negative impact on land and soil
- Water Impacts: Potential impacts on water quality in the area will be mitigated by construction management measures and implementation of SuDS measures.
- Landscape and Visual: impacts are mitigated by the high-quality architectural style and finish of the building
- An upgrade of utilities and telecommunications will have a long-term positive impact for the site and the surrounding area.
- Resource and Waste Management impacts which will be mitigated by preparation of site-specific C&D WMP



- The increase of housing stock will have a direct positive impact on the population of Dublin City.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report and compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

### **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 not seriously injure the residential or visual amenities of the area or of property in the vicinity and would not endanger public safety by reason of traffic hazard or have an adverse impact on the character and setting of a protected structure. 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 could materially contravene the Dublin City Development Plan 2016-2022. 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 Section 16.10.1, Residential Quality Standards -Apartments, which relates to apartment mix and floorspace sizes, would be justified for the following reasons and consideration:

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 support for the National Policy Objectives in the National Planning Framework, in particular Objective 35 which seeks to "increase density in settlements, though a range of measures including restrictions in vacancy, re-use of



*existing buildings, infill development schemes, area or site-based regeneration and increased building heights*". In this regard, the brownfield characteristics of the site, the location directly adjoining Heuston Station (a regional gateway to Dublin) and the high architectural quality and urban design at site identified for a landmark building for Dublin City are considered of particular relevance in confirmation of the strategic importance of the site and the proposed development.

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

It is considered that the apartment mix is justified and the permission for the proposed development should be granted having regard to Government policies as set out in the 'Sustainable Urban Housing: Design Standards for New Apartments (in particular section SPPR 7 & SPPR 8).

## **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 period during which the development hereby permitted may be carried out shall be 8 years from the date of this order.

**Reason:** Having regard to the nature of the development in conjunction with the consented scheme ABP 306569-20, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.



3. The proposed development shall be amended as follows:

(a) Internal walls surrounding bedrooms areas within studio apartments shall be removed.

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

**Reason:** In the interests of residential amenity

4. Mitigation and monitoring measures outlined in the plans and particulars, including the environmental impact assessment report submitted with this application as set out in Chapter 22 of the Environmental Impact Assessment Report 'Summary of Mitigation, Monitoring and Residual Effects', shall be carried out in full, except where otherwise required by conditions attached to this permission. The applicant shall employ a qualified Ecological Clerk of Works to oversee and implement the mitigation measures and other ecological works listed throughout the submitted documentation.

**Reason:** In the interest of protecting the environment and in the interest of public health.

5. The mitigation measures contained in the Natura impact statement which was submitted with the application shall be implemented in full.

**Reason:** In the interests of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European Sites.



6. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission(s) granted on 19<sup>th</sup> day of May 2020 An Board Pleanála Reference Number ABP-306569-20, and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

7. (a) Prior to the opening or 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 and 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 uses over time and shall include a strategy 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, traffic and pedestrian safety.



8. A minimum of 10% of all car parking spaces should be provided with electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points has not been submitted with the application, in accordance with the above noted requirements, the developer shall submit such details which shall be agreed in writing with the planning authority prior to commencement of development.

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

9. 589 number bicycle parking spaces shall be provided within the site. Electric charging facilities shall be provided for at least 10% of the bicycle parking. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted to An Bord Pleanála with this application, unless otherwise 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 to future proof the development for the use of electric bicycles.

10. Prior to commencement of development the applicant shall submit a design for bird friendly glazing and installed in this building in accordance with the methodology set out hereafter:

That a combination of the following strategies is used to treat a minimum of 85 per cent of all exterior glazing within the first 16 metres of the buildings above grade including clear glass corners, parallel glass and glazing surrounding interior courtyards and other glass surfaces:

- (a) Low reflectance opaque materials.
- (b) Visual markers applied to glass with a maximum spacing of 50 millimetre



x 50 millimetre.

- (c) Building integrated structures to mute reflections on glass structures.

The glazing design for the development in accordance with these strategies to be submitted to the planning authority for its written agreement before commencement of any development works on site.

**Reason:** To minimise the mortality of protected bird species by deterring bird collisions.

11. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and 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.

12. Prior to the commencement of the development the applicant shall contact the Irish Aviation Authority in relation to all crane operations, with a minimum of 30 days prior notification of their erection. Details of a suitable marking and lighting scheme as agreed with the Irish Aviation Authority shall be submitted to the planning authority prior to the commencement of construction. Additional information regarding crane type (tower, mobile), elevation of the highest point of crane, dimensions of crane, ground elevation and location co-ordinate shall also be required by the Irish Aviation Authority to allow for an aviation safety assessment.

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



13. The development hereby permitted shall be for 198 number residential units which 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 Housing, Planning and Local Government in December 2020 and be used for long term rentals only. No portion of this development shall be used for short term lettings.

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

14. 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.

15. Prior to expiration of the 15 year period referred to in the covenant, the owner shall be submitted to and agreed in writing with 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.



16. Prior to the commencement of development, the owner shall submit to and agreed in writing with 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 let or sold separately for that period.

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

17. The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with this application and, notwithstanding the provisions of the Planning and Development Regulations 2001, as amended, and any statutory provision amending or replacing them, shall not be altered without a prior grant of planning permission.

**Reason:** To clarify the nature and extent of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations

18. 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.



19. Details of all external shopfronts and signage in Block A shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

20. Site development and building works shall be carried out only between the hours of 0700 to 1900 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 amenities of property in the vicinity.

21. 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.

22. The proposed development shall be carried out on a phased basis in combination with An Bord Pleanála Reference Number ABP-306569-20, in accordance with a phasing scheme, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

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



23. Proposals for an estate and street name, apartment 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. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements or marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

24. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation including hydrological and geotechnical investigations relating to the proposed development,
  - (b) employ a suitably qualified archaeologist who shall carry out site testing and monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.
  - (d) Agree in writing the archaeological method statements for mitigation with the Department of Culture, Heritage and the Gaeltacht, prior to commencement of any works on site

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 in situ or by record of any remains that



may exist within the site.

25. 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.

26. 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 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.



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 of roads, footpaths, watermains, drains, 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 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 of the development.



28. 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**

Paul Hyde

**Date:** 28/09/2021