



An
Bord
Pleanála

Board Direction
BD-009187-21
ABP-310570-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 04/10/2021.

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 set out in the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midland Region,
- (b) the policies and objectives set out in the South Dublin County Development Plan 2016-2022 (as varied),
- (c) the policies and objectives set out in the Fortunestown Local Area Plan 2012-2022 (as extended),
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (e) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018,
- (f) the Design Manual for Urban Roads and Streets (DMURS), 2013, as amended,
- (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 Planning System and Flood Risk Management (including the associated Technical Appendices), 2009,
- (j) the nature, scale and design of the proposed development,
- (k) the availability in the area of a range of social, community and transport infrastructure,
- (l) the pattern of existing and permitted development in the area,
- (m) the planning history of the site and within the area,
- (n) the submissions received from observers and prescribed bodies,
- (o) the report of the Chief Executive of South Dublin County Council, and
- (p) the report and recommendation of the Inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

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 of the proposed development, taking into account:

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

The Board agreed with the summary of the results of consultations and information gathered in the course of the Environmental Impact Assessment, and the examination of the information contained in the Environmental Impact Assessment Report and the associated documentation submitted by the applicant and the submissions made in the course of the application as set out in the Inspector's report. The Board is satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision.

Reasoned Conclusions on the 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 project on the environment, taking into account current knowledge and methods of assessment. 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 to be positive, neutral and if negative to decrease to imperceptible through the implementation of the targeted mitigation measures. The significant effects are as follows:

On population and human health arising from the creation of a new community through the provision of residences, services, places for employment and recreational activities;

On the landscape through the permanent change from a greenfield site to an urban environment with buildings of scale and height, and the creation of public open spaces with hard and soft landscaping;

On material assets (including the components of traffic and transportation, water services, and waste management) due to an increase in vehicular, pedestrian and cycle activity on the surrounding road network; in demand for public transport services; in demand on the existing water services systems and additional surface water run-off; and in demand for the disposal of construction and operation waste;

On land and soils at surface through site clearance, soil removal, hardstanding and buildings; and at subsurface through the construction of the basement level and the surface water drainage and storage system;

On biodiversity through the loss of localised habitats and disturbance of bat populations, and creation of landscaped areas of public open space including a biodiversity corridor along the Baldonnell Upper Stream; and

On hydrology through the construction of the pedestrian bridge over the Baldonnell Upper Stream.

Conclusion 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 and building height, and would be acceptable in terms of pedestrian, traffic and aviation safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 would materially contravene the

South Dublin County Development Plan 2016-2022 and the Fortunestown Local Area Plan 2012-2022 with respect to building height; the South Dublin County Development Plan 2016-2022 and the Fortunestown Local Area Plan 2012-2022 with respect to residential density; and the Fortunestown Local Area Plan 2012-2022 with respect to residential unit mix, size, and typology.

The Board considers that, having regard to the provisions of section 37(2)(b)(i), (ii), (iii) and (iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the development plan and local area plan and would be justified for the following reasons and considerations:

- (a) It is considered that the proposed development is of strategic or national importance by reason of its potential to contribute to the achievement of Government policy to increase delivery of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness; its compliance with Government policies as set out in the National Planning Framework, in particular NPO 13 and NPO 35, 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 location of the site within the South-West Corridor in the Metropolitan Area Strategic Plan for Dublin City and suburbs within the Regional Spatial and Economic Strategy;
- (b) It is considered that permission for the proposed development should be granted having regard to the national planning guidance set out in section 28 Ministerial Guidelines including in the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, the Urban Development and Building Height Guidelines for Planning Authorities, in particular SPPR 3 and SPPR 4, and the Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, in particular SPPR 1 and SPPR 3; and
- (c) It is considered that the proposed development is consistent with the pattern of development, existing and permitted, which has become established in the Citywest area in terms of building heights, residential densities, and residential unit mixes, sizes and typologies.

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. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report, as set out in Chapter 16 of the EIAR 'Schedule of Mitigation Measures' submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission. The developer shall appoint a person with appropriate ecological and construction expertise as an environmental manager to ensure that the mitigation measures identified in the Environmental Impact Assessment Report are implemented in full.

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

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

4. The use of the three retail units at ground floor levels of Blocks D3 and E1 shall be within the definition of 'shop' in the Planning and Development Regulations, 2001, as amended.

Reason: In the interests of clarity and to protect the amenity of the area.

5. Details of external shopfront, lighting, security shuttering and signage for the retail and office units shall be as submitted to and agreed in writing with, the planning authority prior to occupation of the retail/ office units.

Reason: In the interest of the amenities of the area/ visual amenity.

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 a development name, retail/ office 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.

8. Proposals for an estate/ street name, dwelling 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 dwelling 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/ 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.

9. 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. The agreed lighting system shall be fully implemented and operational, before the proposed development, including the retail/ office units, are made available for occupation.

Reason: In the interests of amenity and public safety.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. 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.

11. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. 278 clearly identified car parking spaces 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.

(b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces

within the development shall be assigned, segregated by use and how the car park shall be continually managed.

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

12. 650 bicycle parking spaces shall be provided within the site. 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.

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

Reason: In the interest of sustainable transportation.

14. Prior to the opening/ occupation of the development, a Mobility Management Plan 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.

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

15. A minimum of 10% of all car parking spaces should be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/ stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/ points have 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.

16. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the Landscape Design report and associated plans submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

Reason: In the interest of nature conservation, residential amenity, and to ensure the satisfactory development of the public open space areas and their continued use for this purpose.

17. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years, and shall include details of the arrangements for its implementation.

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

18. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/ particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

19. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

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

(ii) All foul sewage and soiled water shall be discharged to the public foul sewer; only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

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

21. (i) The developer shall enter into water and/ or wastewater connection agreement(s) with Irish Water, prior to commencement of development.
- (ii) The developer shall provide, prior to commencement and to the satisfaction of Irish Water, evidence of permission(s), a capacity and condition report, or other such report, indicating the sufficiency of the third party infrastructure which the proposed development shall be connected to/ served by.

Reason: In the interest of public health.

22. (i) Prior to commencement of development, the developer shall obtain consent from the Office of Public Works through a Section 50: Arterial Drainage Act 1945 licence for the construction of the pedestrian bridge crossing over the Baldonnell Upper Stream.
- (ii) Prior to construction of the bridge, the developer shall consult with Inland Fisheries Ireland regarding a method statement for construction in line with best environmental practice.

Reason: In the interest of public health and to protect river water quality.

23. (i) Prior to commencement, of development written agreement shall be obtained from Transport Infrastructure Ireland in respect of access, investigative, or any other such facilitating works adjacent to Luas infrastructure.
- (ii) The construction of the proposed development shall comply with Transport Infrastructure Ireland's Code of Engineering Practice for works, on, near, or adjacent the Luas Light Rail system.

Reason: In the interest of public safety and to prevent obstruction or interference with the operation of the LUAS system.

24. Prior to commencement, the developer shall consult with the Irish Aviation Authority in respect of the crane operations proposed on site including a marking and lighting scheme for construction cranes and any such information as may be required by the Irish Aviation Authority including crane type, elevation, dimensions, ground elevation and location co-ordinates. A minimum of 30 days written notification with regard to the use of (a) proposed crane(s) shall be provided to the Property Management Branch, Department of Defence and the Tallaght Hospital, Health Service Executive.

Reason: In the interest of aviation and public safety.

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 noise and dust management measures, and off-site disposal of construction/ demolition waste.

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

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 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.

28. 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.

29. 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: 04/10/2021

