



An
Bord
Pleanála

Board Direction
BD-009351-21
ABP-310860-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 02/11/2021.

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 site's location close to Dublin city centre, within an established built-up area on lands with zoning objective Z12, which seeks 'to ensure environmental amenities are protected in the predominantly residential future use of these lands in the Dublin City Development Plan 2016-2022,
- (b) the policies set out in the Dublin City Development Plan 2016-2022,
- (c) the provisions of the Architectural Heritage Protection, Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011;
- (d) the provisions of Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (e) the provisions of Housing for All- a New Housing Plan for Ireland, issued by the Department of Housing, Local Government and Heritage in September 2021

- (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 in March, 2019, as amended
- (g) the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development 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 provisions of the Guidelines for Planning Authorities on 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
- (i) the provisions of the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (j) the provisions of the Urban Development and Building Heights, Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018
- (k) Chief Executive Opinion and associated appendices of Dublin City Council
- (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 planning history within the area, and
- (p) the submissions and observations received

(q) the report of the Inspector ,

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this inner suburban location, would respect the existing character of the area and the architectural heritage of the site, 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.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that by itself or in combination with other development, plans and projects 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 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.

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:

- **Biodiversity:** Impacts mitigated by proposed landscaping strategy which will use mix of appropriate species that will attract feeding invertebrates; will ensure no invasive species introduced; the significant provision of active and passive open space; protection of trees to be retained, and measures to avoid disturbance to bats and nesting birds.
- **Land, soils, geology and hydrogeology** impacts to be mitigated by construction management measures including minimal removal of soil, reuse of excess material within the site; proposals for identification and removal of

any possible contamination; management and maintenance of plant and machinery.

- **Hydrology** impacts to be mitigated by management of surface water run-off during construction; adherence to Construction Management Plan; to attenuate surface water flow and avoid uncontrolled discharge of sediment. Operational impacts are to be mitigated by surface water attenuation to prevent flooding.
- **Landscape and Visual:** The development will present as a new development in the landscape. There will also be changed views for some viewers in nearby residences and nearby locations. A significant alteration in landscape character will occur at the site. The potential impact will be mitigated by the establishment of solid perimeter fencing to restrict views and minimise sense of visual disruption into site during construction works; design and landscape strategy; maintenance regime.
- **Architectural Heritage** impacts mitigated by the salvage and re-use of historical features; use of a qualified conservation architect to oversee works;
- **Archaeological** impacts which will be mitigated by archaeological monitoring of ground disturbance works.
- **Traffic and Transport** impacts to be mitigated by implementation of a Construction Environmental Management Plan as well as a Mobility Management Plan which includes appointment of a Mobility Manager to promote sustainable travel patterns by residents during the operation phase; upgrading of site access junction.
- **Air quality and climate** impacts which will be mitigated by dust minimisation plan.
- **Noise and vibration** impacts which will be mitigated by adherence to requirements of relevant code of practice; location of noisy plant away from noise sensitive locations; noise control techniques; quality site hoarding to act as noise barrier
- **Material Assets-Services** impacts which will be mitigated by consultation with relevant service providers; adherence to relevant codes of practice and guidelines; service disruptions kept to a minimum

- **Material Assets-Waste** impacts which will be mitigated by preparation of site specific C&DWMP

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 subject to 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, the proposed development would constitute an acceptable residential density in this inner suburban location, would respect the existing character of the area and the architectural heritage of the site, 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.

The Board considered that a grant of permission that would materially contravene section 16.10.1 of the Dublin City Development Plan 2016-2022 in relation to unit mix and floor area, which applies to the site, would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, having regard to:

- (a) Specific Planning Policy Requirement (SPPR) 3 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, issued in December 2020 which sets minimum apartment floor area of 37 square metres for studio units and
- (b) Specific Planning Policy Requirement (SPPR) 8 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning

Authorities, issued in December 2020 which states no restriction on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise and that the requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes; with which the proposed development would comply.

The Bord considered that a grant of permission that could materially contravene section 16.7.2 of the Dublin City Development Plan 2016-2022 in terms of height would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, having regard to:

- (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 the Rebuilding Ireland Action Plan for Housing and Homelessness 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.
- (b) It is considered that permission for the proposed development should be granted having regard to Government Policies as set out in the Project Ireland 2040 National Planning Framework in particular objectives 13 and 35 and the Urban Development and Building Height Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 in particular Specific Planning Policy Requirement (SPPR) 1 and Specific Planning Policy Requirement (SPPR) 3.

In accordance with section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Bord considered that the criteria in section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended was satisfied for the reasons and considerations set out in the decision.

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 mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions.

Prior to the commencement of development, the developer shall submit a schedule of mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and details of a time schedule for implementation of the mitigation measures and associated monitoring, to the planning authority for written agreement.

Reason: In the interests of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:
 - (a) The footprint of Block B3 shall be reduced by approximately 18 metres on its eastern side, thereby increasing its buffer zone with Red House. This will result in the loss of 22 number residential units. The proposed access road in front of Red House shall be rerouted accordingly so as to also increase the buffer zone with Red House. Additional, revised landscaping proposals for the buffer zone in front of Red House within the red line boundary shall be submitted. Amended plans, section and

• Elevations, at scale of not less 1:200, shall be submitted and agreed with the planning authority, prior to the commencement of construction of Block B3.

(b) Further details of proposed residential tenant amenity facilities to include the provision of increased workstations, working from home hubs and laundry facilities.

(c) Existing trees within the buffer zone between Block D2 and Red House shall be retained and maintained, where possible.

(d) Additional planting along the boundary with the Archbishop's House.

(e) Additional privacy details for ground floor terraces.

(f) The internal bin store at ground floor level to Blocks A2 and A3 shall be repositioned so as provide greater separation distance with adjoining residential units.

(g) Elevational drawings, at an appropriate scale, of proposed Electricity Supply Board substations.

(h) Method Statement detailing construction of proposed pavement underneath Formal Garden.

Reason: In the interests of proper planning and sustainable development and to safeguard the amenities of the occupants.

4. The development hereby permitted shall be for Build to Rent 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 and in the interest of clarity.

5. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that

period. The period of 15 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.

6. Prior to expiration of the 15 year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build to Rent scheme. Any proposed amendment or deviation from the Build to Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

7. (a) Pedestrian access to the public open space areas shall be permanent, open 24 hours a day, with no gates, security barriers or security hut at the entrance to the development or within the development in a manner which would prevent pedestrian access between the areas identified above.

(b) Prior to the occupation of any residential unit, the developer shall ensure that the public realm areas and new routes, as outlined in the site layout plan and landscape drawings shall be fully completed and open to the public.

Reason: In the interest of social inclusion and to secure the integrity of the proposed development including open spaces.

8. All works to the protected structures, shall be carried out under the supervision and in accordance with the requirements of a qualified professional with specialised conservation expertise, Royal Institute of the Architects of Ireland Grade 2 or higher.

Reason: To secure the authentic preservation of these protected structures and to ensure that the proposed works are carried out in accordance with best conservation practice.

Prior to the occupation of the development, a schedule of proposed uses for the proposed ground floor retail and commercial units shall be submitted for the written agreement of the planning authority. In addition, prior to the occupation of these units, details of openings, signage, shopfronts and layout and window treatment of the subject unit shall be agreed in writing with the planning authority.

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

10. Not more than 75% of residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not required at this time.

Reason: To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.

11. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in 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 in March 2019, as amended. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. In particular:

(a) The roads and traffic arrangements serving the site including signage shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.

(b) The roads layout shall comply with the requirements 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 in March 2019, as amended, in particular carriageway widths and corner radii.

(c) Pedestrian crossing facilities shall be provided at all junctions.

(d) The materials used in any roads and footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works, and

(e) A detailed construction traffic management plan, including a mobility management plan, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity

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

Reason: In the interests of amenity and public safety.

13. The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of 10% of each of these spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points and the provision for the operation and maintenance of the charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interests of sustainable transportation.

14. Electric charging facilities shall be provided for bicycle parking and proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.

Reason: In the interests of orderly development and to provide for and future proof the development as would facilitate the use of electric bicycles.

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

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

16. 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.

17. 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.

18. 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 addition, details of a maintenance strategy for materials within the proposal shall also be submitted for the written agreement of the planning authority, prior to the commencement of any works on site. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. Render shall not be used as an external finish.

Reason: In the interests of visual amenity and durability.

19. Each apartment shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.

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

20. Proposals for a development name, creche and commercial unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

21. 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.

22. 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.

23. (a) Commercial units shall **not be** amalgamated or subdivided, unless authorised by a further grant of planning permission.

(b) No external security shutters shall be erected for any of the commercial premises other than at services access points 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 interests of clarity.

24. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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.

25. 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 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. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

26. The site shall be landscaped in accordance with a landscape scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interests of residential and visual amenity.

27. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the submitted Tree Survey Report. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work - Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1 March to 31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment of the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

28. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction and demolition waste and or by-products.

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

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

Reason: In the interest of sustainable waste management.

30. 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.

31. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

32. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, 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.

33. 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: 02/11/2021