

An  
Bord  
Pleanála

**Board Direction**  
**BD-009394-21**  
**ABP-310944-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 09/11/2021.

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 policies and objectives set out in the Dublin City Development Plan 2016-2022
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016, and Housing for All – A New Housing Plan for Ireland, 2021
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (d) the Design Manual for Urban Roads and Streets (DMURS), 2013
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing, Design Standards for New Apartments, 2020
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009

- (h) Architectural Heritage Protection – Guidelines for Planning Authorities, 2011
- (i) the nature, scale and design of the proposed development
- (j) the availability in the area of a wide range of social, community and transport infrastructure
- (k) the pattern of existing and permitted development in the area
- (l) the planning history within the area
- (m) the submissions and observations received
- (n) the report of the Chief Executive of Dublin City Council, and
- (o) the report of the Inspector.

### **Appropriate Assessment Screening**

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 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 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) The location of the site on lands governed by zoning objective Z1, 'to protect, provide and improve residential amenities', in the Dublin City Development Plan 2016-2022,
- c) The existing use on the site and pattern of development in surrounding area,
- d) The planning history relating to the site,
- e) The availability of mains water and wastewater services to serve the proposed development,
- f) The location of the development outside of any sensitive location specified in article 299(C)(1)(a)(v)(l) of the Planning and Development Regulations 2001 (as amended),
- g) 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),
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- i) 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, the proposed development would constitute an acceptable residential density at this suburban location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development, as well as in terms of traffic and pedestrian safety and convenience. The proposal would, subject to conditions, provide an acceptable form of residential amenity for future occupants.

The Board considered that the proposed development is, apart from the building height and dwelling mix parameters, broadly compliant with the current Dublin City Development Plan 2016-2022 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the plan with respect to building height limits and dwelling mix. 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 Dublin City 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. The application site is located within the 'Clongriffin-Belmayne' area, which is designated as a Strategic Development and Regeneration Area (SDRA 1 - North Fringe (including Clongriffin/ Belmayne) within the Dublin City Development Plan 2016-2022, which

implies strategic importance that elevates it above other residentially zoned lands contained in the development plan. The proposal would deliver 413 residential units in a compact urban form on an accessible and serviced urban infill/brownfield site. And has the potential to deliver 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 (July 2016), and Housing for All – A New Housing Plan for Ireland (2021).

- 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 Section 38 guidance Urban Development and Building Height Guidelines, in particular SPPR3; and in terms of dwelling mix is in compliance with the Section 28 guidance Sustainable Urban Housing Design Standards for New Apartments 2020, in particular SPPR1 and in compliance with the Building Height Guidelines, specifically SPPR 4, subsections 2 and 3.
- With regard to S.37(2)(b)(iv) of the Planning and Development Act 2000, as amended), the Board has previously approved a high building on the southern portion of the application site (PL.25N.249368) as well as permission at Clongriffin (ABP-305316-19; ABP-305319-19), Clarehall (ABP-304196-19), and Belmayne (ABP-310077-21) and the proposed development is continuing on that pattern of 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. Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Statement and Mammal Assessment submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

3. Prior to commencement of any works on site, revised details shall be submitted with regard to the following:

(a) Studio unit BB1.G202, as identified on drawing no. 19039-OMP-ZZ-00-DR-A-1000, shall be omitted from Block B2 and the remaining space shall be utilised to create a more generously sized and legible entrance lobby into the apartment block with any additional unrequired space incorporated into unit BB1.G201.

(b) The apartments at ground level at the northwest corner of Block A1 labelled BA1.G201, BA1.G202, BA1.G203 and BA1.G204 (drawing no. 19039-OMP-ZZ-00-DR-A-1000) shall be reorganised to facilitate a pedestrian entrance to the block from

the west at ground level, connecting into the proposed corridor which serves units BA1.G201 to BA1.G204.

(c) Unit BD1.G203, as identified on drawing no. 19039-OMP-ZZ-00-DR-A-1000, shall be omitted from Block D1 and the remaining space shall be utilised to create a more generously sized and legible entrance lobby into the apartment block with reorganisation/repositioning of the stair and external lift access to be aligned more closely with the building elevation.

(d) Studio unit BD2.G207, as identified on drawing no. 19039-OMP-ZZ-00-DR-A-1000, shall be omitted from Block B2 and the remaining space shall be utilised to create a more generously sized and legible entrance lobby into the apartment block with any additional unrequired space incorporated into unit BD2.G206.

(e) The car parking level serving Block A1-B2 shall be reorganised to provide for a bin storage area to the southwestern section of the upper car park level to serve Block B2.

(f) An additional pedestrian entrance into the development shall be provided adjoining the proposed emergency vehicle access from the R139. The proposed gates to all pedestrian entrances shall be omitted and pedestrian access points, including the new access point from the R139, shall remain permanently accessible.

(g) The southfacing windows on the southern arm of Block D shall comprise standard glazing in place of the proposed opaque glazing.

(h) Apartment BA1.0104 (drawing no. 19039-OMP-ZZ-01-DR-A-1001) shall be provided with a balcony area of 7sqm minimum, in accordance with the Guidelines for Planning Authorities on Sustainable Urban Housing, Design Standards for New Apartments, 2020.

(i) A revised site layout plan indicating a 1.5m privacy strip to ground floor apartments, in accordance with the advice at section 3.41 of the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Housing, Planning and Local Government, 2020.

Revised drawings showing compliance with these requirements shall be submitted to, and 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 interests of proper planning and sustainable development and to safeguard the amenities of the area.

4. 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 needed (at this time).

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

5. Details of the materials, colours and textures of all the external finishes to the proposed buildings and detailed public realm finishes, including pavement finishes, shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The render finish to external elevations of the development shall be replaced with an alternative durable, high quality material/finish.

**Reason:** In the interest of visual amenity.



6. No additional development shall take place above roof parapet level of the shared accommodation buildings, 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, and to allow the planning authority to assess the impact of any such development through the planning process.

7. Proposals for a development name 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. (a) Details of the proposed signage to the childcare facility to be submitted prior to occupation for the written agreement of the planning authority.

(b) The proposed childcare facility shall be provided and retained as part of the development with access provided to both residents of the development and the wider community on a first come first served basis.

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

9. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development/installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

**Reason:** In the interest of public safety and visual amenity.

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) Details of the bicycle parking space location, layout, access to the basement, storage arrangement, marking demarcation, and security provisions for bicycle spaces shall be submitted for the written agreement of the planning authority prior to commencement of development.

(b) 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:** To ensure that adequate bicycle parking provision is available to serve the proposed development, and in the interest of orderly development and to provide for and future proof the development as would facilitate the use of electric bicycles.

12. A Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post construction stage. All audits shall be carried out at the Developers expense in accordance with the Design Manual for Urban Roads & Streets (DMURS) guidance and TII (Transport Infrastructure Ireland) standards. The independent audit team(s) shall be approved in writing by the Planning Authority and all measures recommended by the Auditor shall be undertaken unless the Planning Authority approves a departure in writing. The Stage 2 Audit reports shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.

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

13. The developer shall comply with all requirements of the planning authority in relation to all works to be carried out on the public road/footpath, to existing traffic signals, and areas to be taken in charge. Provision for cyclists shall comply with latest National Cycle Manual and Design Manual for Urban Roads 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.

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

14. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. 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, with the exception of the car share spaces, unless the subject of a separate grant of planning permission.

(b) Prior to the occupation of the development, a Car and Cycle 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 and also to prevent inappropriate commuter parking.

15. A minimum of 10% of all car parking spaces shall be provided with functioning 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 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. 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.

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

17. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 – Detailed Design Stage Stormwater Audit. Upon completion of the development, a Stage 3 Completion Stage Stormwater Audit to demonstrate that Sustainable Urban Drainage Systems measures have been installed, are working as designed, and that there has been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

18. Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.

**Reason:** In the interest of public health.

19. Prior to the commencement of development the developer shall contact the Irish Aviation Authority in relation to all crane operations, with a minimum of 30 days prior notification of their erection.

**Reason:** In the interest of aviation safety.

20. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:

- (a) details of proposed boundary treatment to the childcare facility play area;
- (b) details in relation to the interface of site services and trees to be retained;
- (c) details in relation to the materials and external finishes proposed to the louvred car park walls and proposed planting plan adjoining the walls;
- (d) details in relation to public furniture/benches;
- (e) details in relation to layout and design of informal play facilities and equipment;
- (f) proposed locations of trees at appropriate intervals and other landscape planting in the development, including details of the size, species and location of all vegetation, including biodiversity enhancement measures;
- (g) the Leylandii cypress tree belt to the west shall be retained during the construction period with the removal and replacement planting with mixed broadleaf varieties carried out on a phased basis over 10 years from commencement of works on site;
- (h) details of a Landscape Management and Maintenance Plan of both communal residential and publicly accessible areas to be implemented during operation of the development. All planting shall be adequately protected from damage until established and maintained thereafter. Any plants which die, are removed or become seriously damaged or diseased in the first 5 years of planting, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of amenity, ecology and sustainable development.

21. a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s) proposed to be retained, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

(d) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained on the site, unless by prior agreement with a specialist arborist.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

22. 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 to be retained 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.

23. 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.

24. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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

25. The construction of the development shall be managed in accordance with a Construction 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 details of intended construction practice for the development, including a detailed traffic management plan, hours of working, noise 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 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 residential amenities of property in the vicinity.

27. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

28. 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.

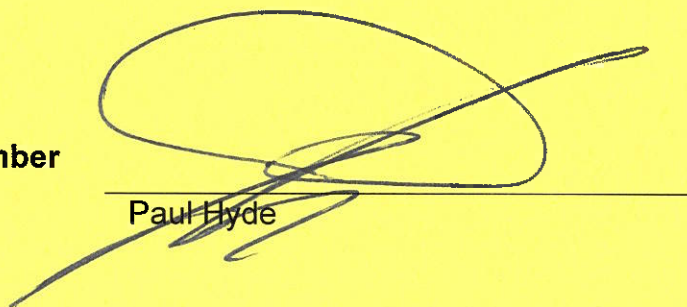
29. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory 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.

30. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Board Member**



Paul Hyde

**Date:** 09/11/2021