

An
Bord
Pleanála

Board Direction
BD-009843-22
ABP-311411-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/01/2022.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the location of the site in an established urban area, with the zoning objectives for the site allowing for a residential led development;
- (b) the policies and objectives of the Dun Laoghaire Rathdown Development Plan 2016-2022;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) Housing for All - a New Housing Plan for Ireland 2021;
- (e) the National Planning Framework which identifies the importance of compact growth;
- (f) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (g) The provisions for the National Student Accommodation Strategy issued by the Department of Education in July 2017;

- (h) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (h) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (i) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020;
- (j) 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 2013;
- (k) The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009;
- (l) Architectural Heritage Protection – Guidelines for Planning Authorities (2011);
- (m) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (n) The pattern of existing and permitted development in the area;
- (o) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan or a Local Area Plan;
- (o) The submissions and observations received;
- (q) The Chief Executive Report from the Planning Authority; and
- (r) 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 area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded 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 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(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) The existing use on the site and pattern of development in surrounding area;
- (c) The availability of mains water and wastewater services to serve the proposed development,
- (d) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (e) 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),

(f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

(g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Outline Construction Management Plan, the Site Specific Flood Risk Assessment, the Construction & Demolition Waste Management Plan, the Landscape Management and Maintenance Plan, the Ecological Impact Assessment Report and the Engineering Planning Report.

The Board did not consider that the proposed development would be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of pedestrian safety and would provide an acceptable form of residential amenity for future occupants. The proposed development 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 provisions of the Dun Laoghaire-Rathdown County Development Plan 2016-2022, with regard to building height and Part V provision.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Appendix 9: Building Height Strategy of the Dun Laoghaire Rathdown County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- The current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature, in that it is part of a cumulative response to a strategic issue of national importance (i.e. the provision of housing and compact urban growth). National policy as expressed within 'Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness', 'Housing for All - a New Housing Plan for Ireland 2021' and the National Planning Framework – Ireland 2040 fully support the need for urban infill residential development. The proposal represents the regeneration of an important site and makes a contribution to the housing stock, of some 276 no. student bedspaces, and therefore seeks to address a fundamental objective of the Housing Action Plan, and as such addresses a matter of national importance, that of housing delivery;
- Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth and seeks to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements;
- The Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs;
- The Urban Development and Building Height Guidelines (2018), state that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas through enhancing both the scale and density of development. It is further set out that building heights must be generally increased in appropriate urban locations, subject to the specific criteria as set out in Section 3.2 of the Guidelines, which the Board considers have been satisfactorily addressed in this instance.

The Board considers that, having regard to the provisions of section 37(2)(b)(ii) and (iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Section 7.6 of Appendix 2 of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 (as relates to Part V provision

within Student Accommodation developments) would be justified for the following reasons and considerations;

- There are conflicting requirements set out in the Dun Laoghaire-Rathdown County Development Plan 2016-2022 (Policy RES2 and Section 7.6 of Appendix 2 refer) as relates to the requirements for Part V provision within Student Accommodation developments;
- Since the making of the Dun Laoghaire Rathdown Development Plan 2016-2022, the Board did not apply Part V requirements for off campus student accommodation developments at a site at Our Lady's Grove, Goatstown, Dublin 14 (ABP-309430-21), at the Vector Motors site (formerly known as Victor Motors), Goatstown Road (ABP-308353-20); at the Avid Technology International site, Carmanhall Road, Sandford Industrial Estate, (ABP 303467-19) and at the Blakes and Esmonde Motors Site, Lower Kilmacud Road, Stillorgan (ABP-300520-18).

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, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be five years from the date of this Order.

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

3. The development hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided for under Section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016 and shall not be used for any other purpose without a prior grant of planning permission for change of use.

Reason: In the interest of residential amenity and to limit the scope of the development to that for which the application was made.

4. The proposed development shall be amended as follows:

(a) The 4 no. car parking spaces to the north-west of the 'Urban Square' shall be omitted and the area shall be incorporated into the proposed public realm.

Amended plans detailing the above amendments shall be submitted and agreed in writing with the planning authority prior to the commencement of the development.

Reason: In the interests providing a public realm of sufficient quality, in the interests of surrounding residential amenity and in the interests of the amenity of the future occupants of the proposed development.

5. (a) Prior to the commencement of development, an amended Student Management Plan shall be submitted to, for agreement in writing with, the Planning Authority detailing appropriate access times to the 3 no. roof terraces. The roof terraces shall not be available for use outside of these agreed times. Following agreement with the Planning Authority, the student accommodation and complex shall be operated and managed in accordance with the measures indicated in the Amended Student Accommodation Management Plan.

(b) Student House Units / Clusters shall not be amalgamated or combined.

Reason: In the interests of the amenities of occupiers of the units and surrounding properties.

6. Prior to the occupation of the development, a schedule of proposed uses for the proposed ground floor commercial units shall be submitted for the written agreement of the planning authority. Class 2 office or professional uses shall not be permitted without a separate grant of planning permission. In addition, prior to the occupation of these units, details of openings, signage, lighting, shopfronts and layout and window treatment of the subject unit shall be agreed in writing with the planning authority.

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

7. All mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment, the Outline Construction and Environmental Management Plan (CEMP), the Site Specific Flood Risk Assessment and subsequent reports 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.

8. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised plans and particulars showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:

(a) All works to public roads and footpaths shall be completed to the satisfaction of the planning authority.

(b) A Quality Audit shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post construction stage which is to be submitted to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.

(c) The proposed development shall be undertaken in accordance with the recommendations and mitigation measures of the Traffic and Transport Impact Assessment.

(u) 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.

(e) A detailed construction traffic 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.

(f) Car parking serving the entire site shall be managed based on a detailed car parking management plan. Prior to the commencement of development, such a detailed car parking management plan shall be submitted for agreement in writing with the planning authority.

In default of agreement, the matter(s) in dispute shall be referred to An Board Pleanála for determination.

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

9. Prior to the occupation of the residential units, 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. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

10. A minimum of 10% of all car parking spaces shall 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 has 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.

11. Proposals for the development name and 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 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.

12. 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.

13. The area of public realm (Urban Square) and the proposed landscaped pedestrian/cycle links to the east and south of the site, as shown on the lodged plans, and the areas of communal terraces shall be landscaped/planted in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for

occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

Reason: In order to ensure the satisfactory development of the public and communal open space areas, and their continued use for this purpose.

14. 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.

15. Water supply and the arrangements for the disposal of foul water, shall comply with the requirements of the Irish Water for such works and services.

Reason: In the interest of public health and to ensure a satisfactory standard of development.

16. The developer shall enter into water and wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

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.

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

18. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities 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.

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

19. 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.

20. 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 occupation of the development.

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

21. 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 of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the

development, including noise and vibration management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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

22. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

23. 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.

24. 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.

25. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

26. All items and areas for taking in charge shall be undertaken to a taking in charge standard. Prior to development the applicant shall submit construction details of all items to be taken in charge. No development shall take place until these items have been agreed.

Reason: To comply with the Councils taking in charge standards.

27. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

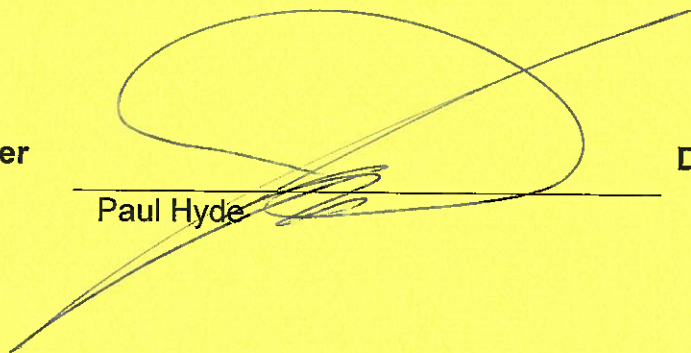
28. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory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

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 for Dun Laoghaire-Rathdown County Council 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: 25/01/2022