



An
Bord
Pleanála

Board Direction
BD-010510-22
ABP-311540-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/01/2022. and all additional submissions and an addendum report prepared by the Inspector subsequent to a limited agenda Orla hearing were considered at a subsequent meeting 12/04/2022.

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

- (a) The policies and objectives as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022;
- (b) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (c) The provisions of Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage September 2021;
- (d) 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;
- (e) 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;

- (f) The provisions of 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;
- (g) The provisions of 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,
- (h) The provisions of Architectural Heritage Protection, Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht October 2011,
- (i) The provisions of the Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009,
- (j) The nature, scale and design of the proposed development;
- (k) The availability in the area of a range of social, community and transport infrastructure;
- (l) The pattern of existing and permitted development in the area;
- (m) The planning history of the site and within the area;
- (n) The submissions and observations received;
- (o) The Chief Executive's Report of Dún Laoghaire-Rathdown County Council;
and
- (p) The report of the Planning 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 Screening for Appropriate Assessment documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and 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 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 with the application;
- (c) The reports and submissions received from observers and prescribed bodies;
- (d) The Inspector's report;

The Board agreed with the summary of the results of consultations and information received in the course of the Environmental Impact Assessment, and the examination of the information contained in the Environmental Impact Assessment Report and the associated documentation submitted by the applicant and the submissions made in the course of the application as set out in the Inspector's Report. The Board is satisfied that the Inspector's

report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision.

Reasoned Conclusions on the Significant Effects:

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. A Construction Environmental Management Plan is the overarching general mitigation embedded in the project design and delivery for the construction stage. In addition, plans relating to Waste Management and Traffic Management are also proposed. The main significant effects, both positive and negative are:

- **Population:** A positive impact with regard to population and material assets due to the increase in housing stock that would be made available in the city.
- **Biodiversity Impacts:** Significant direct local impacts on existing flora and fauna will be mitigated by a range of measures identified in the Environmental Impact Assessment Report, including construction management measures, protection of trees to be retained, landscaping and planting of new trees, measures in relation to bats and birds and use of bat and bird boxes. The proposed development would not have a significant negative impact on biodiversity.
- **Landscape and Visual Impacts:** There will be changed views from various locations given the change from a largely low density low rise infill site to a high density residential development. The lands are zoned for residential development and the proposal is not expected to involve the introduction of

new or uncharacteristic features into the local or wider landscape character setting, relative to what exists in the immediate and wider area. The potential impact will be mitigated by the design, retention of specified trees, and proposed landscaping. The proposed development would not have a significant negative impact on the landscape.

- **Traffic and Transport:** Potential for moderate short term impacts in terms of construction traffic will be mitigated as part of a construction management plan. There will be no significant negative impact on traffic junctions in the immediate area and any potential impact will be mitigated by way of implementation of the Mobility Management Strategy for the development.
- **Water:** Potential impacts on water, which are proposed to be mitigated by construction management measures and implementation of SUDS measures.
- **Air Quality and Climate:** Potential impacts on air quality and climate, which will be mitigated by measures set out in the Environmental Impact Assessment R.
- **Noise and Vibration:** Potential effects arising from noise and vibration during construction, which will be mitigated by appropriate management measures.

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

convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that the proposed development is, apart from the building height parameters, broadly compliant with the current Dún Laoghaire-Rathdown County 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. 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 Dún Laoghaire-Rathdown County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- With regard to section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the 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, as amended. The application site has the potential to contribute to the city's delivery of compact urban growth and to the achievement of the Government's Policy to increase delivery of housing from its own under supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness.
- With regard to section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the proposed development in terms of height is in accordance with national policy as set out in the Project Ireland 2040 National Planning Framework, specifically National Policy Objective 13 and National Policy Objective 35 and is in compliance with the Section 28 guidance Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018, in particular Specific Planning Policy Requirement 3.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars uploaded on the applicant's website on 7th March 2022 and submitted prior to the Oral Hearing on the 7th day of March 2022, 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. Mitigation and monitoring measures outlined in the plans and particulars submitted with this application, including in the Environmental Impact Assessment Report, as set out in Chapter 21 of the EIAR 'Summary of Mitigation Measures', 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. The four storey section of Block B, which comprises apartment no.s 8, 9, 21, 22, 34, 35, 47 and 48, shall be omitted and revised plans submitted accordingly. The remaining area shall be incorporated as open space.
- b. The top floor level to Block B and C shall comprise a setback penthouse arrangement.
- c. The primary element of Block D shall be 7 floors in height and the pop element shall be 9 floors in height as submitted prior to the Oral Hearing.

- d. The internal full height partition screen within the studio units in Blocks C and D shall be omitted and any replacement screen arrangement shall allow for natural light and ventilation across the combined living/sleeping area.
- e. The northeastern end of Block F closest to the boundary with no. 25 Silver Pines shall be amended to omit the end apartment units of no. 12, no. 24 and no.36. The remaining area shall be incorporated as open space and a revised design addressing the location and design of the stairwell serving the apartment block including windows to the stairwell where appropriate, shall be submitted.
- f. The studio units in Block F, which have been designed with bedrooms separated from the living area by way of walls and sliding doors, shall be redesigned to comprise a combined living/sleeping area and shall meet the minimum floor area for studio units, as set out in the Guidelines for Planning Authorities on Sustainable Urban Housing, Design Standards for New Apartments, 2020. Revised floor plans shall be submitted accordingly and shall take account of point c above.
- g. An amendment to the depth and length of the terraces and balconies along the southeast façade of Block F to ensure no element of the building or balconies associated with Block F encroach on the 2.5m wide public footpath at the southwest corner of the block adjoining Leopardstown Road.
- h. The type 5 boundary, which comprises an existing low blockwork wall with a proposed fixed timber fence panel on top with overall height of 1.8m, shall be amended to comprise a blockwork or similar finish on top of the existing blockwork wall, or an entire replacement blockwork wall if required, to a height of 1.8m, unless otherwise agreed in writing with the planning authority.
- i. Ground level apartment floor to ceiling heights shall be a minimum of 2.7m across Blocks A, B, C, D and F, as required under Specific Planning Policy Requirement 5 of the Guidelines for Planning Authorities on Sustainable Urban Housing, Design Standards for New Apartments, 2020.
- j. Additional details of privacy measures between balconies/terraces and between areas of private/communal open space
- k. A pedestrian path shall be provided from the Silver Pines access connecting into the existing path along the northern boundary of the site and a pedestrian path shall be provided from the Silver Pines access to the existing, or alternatively agreed, pedestrian access point into the Anne Sullivan Centre. Pedestrian crossing points, as required, shall be facilitated across the access route to ensure safe

movement of those from the Anne Sullivan Centre and from St. Josephs to the northern greenway route, north of the application site boundary.

l. The bin stores located to the west of the childcare facility in St. Josephs shall be relocated away from the pedestrian entrance to the Anne Sullivan Centre.

m. The proposed 2m rendered blockwork wall to the south of St. Josephs, adjoining the location of the creche and extending west of the building, shall be replaced with a new hedgerow embedded within a mesh fence, or alternative to be agreed with the planning authority.

n. The gates within the 1.8m high boundary railing to the northeastern boundary with the existing greenway shall be omitted and the two pedestrian access points from the site onto the greenway and all other access points to the site shall be permanently made available for unimpeded public access at all times and shall remain permanently accessible.

o. The location of the ESB kiosk at the vehicular entrance on the Leopardstown Road and the adjoining 62sqm waste collection area shall be repositioned where feasible to within the scheme and the 3m high wall at the western gable end of Block C bounding the waste collection area shall be reduced in height to facilitate light into the ground level apartments.

p. Full details of boundary wall and fence adjoining the area of the childcare facility, to its associated play area and along the southern boundary of St. Josephs.

q. Full details of privacy screens between balconies of the apartments.

r. Full details of green roofs to the apartment buildings, bin and bike stores.

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. All works to St Josephs, a Protected Structure shall be carried out under the supervision of a conservation architect.

Reason: In order to safeguard the special architectural or historical interest of the building.

5. The carrying out of the development shall be phased and, before any part of the development commences, (or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing), a development programme, including inter alia a detailed comprehensive site layout showing all proposed phases with the redevelopment of St. Josephs included as Phase 1 and completed prior to the occupation of Blocks A-F, shall be submitted to and agreed in writing with the planning authority.

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

6. 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.

7. 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/An Bord Pleanála 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.

8. 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.

9. 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.

10. (a) Details of the proposed signage for 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.

11. Details of the external shopfront to the café, lighting, signage and internal security shuttering shall be as submitted to, and agreed in writing with, the relevant planning authority prior to occupation of the unit. No external security shutters shall be erected for any of the commercial premises unless authorised by a further grant of planning permission.

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

12. 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. The lighting scheme for the proposed development shall be designed in accordance with guidance contained in Institution of Lighting Professionals (ILP). (2018). Guidance Note 08/18: Bats and artificial lighting in the UK, and signed off on by a bat specialist before submission to the planning authority for its written agreement before the commencement of any works on site.

Reason: In the interest of public safety and visual amenity and to conserve bat species afforded a regime of strict protection under the Habitats Directive (92/43/EEC) by avoiding unnecessary light pollution.

13. 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.

14. (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.

15. Revised drawings and details demonstrating that all items raised in the submitted Stage 1 Quality Audit (dated September 2021) have been adequately addressed 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.

16. 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.

17. 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, and areas to be taken in charge. The internal street network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, vehicular entrances and basement car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. 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. Prior to commencement of development, full details of the proposed works to be carried

out at the developer's expense at Leopardstown Road shall be submitted for the written agreement of the planning authority. Works shall include:

- (a) left in/left out only vehicular access at Leopardstown Road;
- (b) 2.5m width footpath along Leopardstown Road;
- (c) relocated Bus Stop and cycle path in accordance with the National Cycle Manual;
- (d) close off of other existing access points at Leopardstown Road Development frontage; and
- (f) bollards, road marking, signage and public lighting.

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

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

18. (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.

19. 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.

20. Prior to the opening or occupation of the development, a detailed 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.

21. 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.

22. 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.

23. Prior to the commencement of 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 minimum on a fortnightly basis to ensure the implementation of all of the recommendations in the tree reports and plans. The arborist shall include secondary tree protection fencing around all root protection areas of trees to be retained. All works within these areas shall be supervised at all times by the project arborist and the fencing can only be temporarily removed to undertake works under the supervision of the arborist. The arborist shall agree the exact location and detail of the secondary fencing in writing with the planning authority prior to the commencement of any permitted development. 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 Arboricultural Method Statement and Tree Protection Plan in the submitted Arboricultural Report. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations (or as updated). The clearance of any vegetation including trees and scrub shall be carried out outside the bird-breeding season (1st September and the end of February inclusive) or as stipulated under the Wildlife Acts, 1976 and 2000. The arborist shall carry out a post construction tree survey on the condition of the retained trees. A completion certificate shall 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 Dún Laoghaire-Rathdown County Council's Parks and Landscape Services for written agreement upon completion of the works. The developer shall also be made aware of their obligations to constantly assess and survey the trees after construction because of the potential impact and the age/condition of these trees as outlined in the tree survey.

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

24. The erection of bird boxes in the proposed development and implementation of the measures set out in the supporting EIAR to avoid bird collisions shall be carried out as proposed in that document,

Reason: To conserve protected bird species.

25. Bat boxes shall be erected as proposed in the EIA supporting this application, that trees to be felled will be surveyed for bats before their removal, and that the destruction of interference with any building containing a bat roost or on any tree identified as a bat roost shall only to be carried out on receipt from the NPWS of a licence to derogate from the Habitats Directive and destroy the roost.

Reason: To conserve bat species afforded a regime of strict protection under the Habitats (92/43/EEC).

26. 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 in relation to the interface of site services and trees to be retained;
- (b) details in relation to public furniture/benches;
- (c) details in relation to layout and design of play facilities and equipment;
- (d) 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;
- (e) phasing plan for replacement planting of trees;
- (f) 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.

27. 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 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 top soil 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.

28. Prior to the commencement of any development, the site shall be surveyed for frog spawn and tadpoles by an ecologist and if any spawn or tadpoles are identified they shall be translocated under licence from the NPWS to a substitute pond located to a safe section of the development site.

Reason: To prevent the destruction of the spawn and juvenile stages of a protected species, namely frog.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

35. 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.

36. 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.

37. 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.

38. 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.

DECISION QUASHED

39. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 from the Sandyford Depot to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Note: In deciding not to accept the Inspector's recommendation to omit the upper floor of the pop up element of Block D the Board was satisfied that subject to the amendments made to the scheme at Oral hearing stage the proposed development would not seriously injure the visual amenities of the area and would not seriously injure the residential amenities of future occupants. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

Board Member



Paul Hyde

Date: 13/04/2022