

An
Bord
Pleanála

Board Direction
BD-009956-22
ABP-311588-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/02/2022.

The Board decided to grant permission, 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 as set out in the Limerick City Development Plan 2010-2016, as extended;
- (b) The provisions of the Southern Regional Assembly Regional Spatial and Economic Strategy which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure;
- (c) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) The provisions of Housing for All, A New Housing Plan for Ireland, issued by the Department of Housing, Local Government and Heritage in September 2021;
- (e) The provisions of Project Ireland 2040 National Planning Framework;
- (f) 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;
- (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 the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of Environment, Heritage and Local Government in 2009;
- (i) 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;
- (j) 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;
- (k) The pattern of existing and permitted development in the area;
- (l) The submissions and observations received;
- (m) The Chief Executive's Report received from Limerick City and County Council;
- (n) The report of the Planning Inspector.

Appropriate Assessment Screening

The Board considered the Natura impact statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Lower River Shannon Special Area Conservation (Site Code: 002165) and the River Shannon and Fergus Estuaries Special Protection Area (Site Code: 004077) are the only European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for these sites and for which Appropriate Assessment is required.

Appropriate Assessment

The Board considered the Natura impact assessment and all other relevant submissions including expert submissions and carried out an appropriate assessment of the implications of the proposed development for these European Sites in view of the above sites' Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following;

- (a) Site Specific Conservation Objectives for these European Sites,
- (b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (c) the submissions from observers including expert submissions,
- (d) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites.

In conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the site's Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions from the planning authority, the observers and prescribed bodies in the course of the application,
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the developer identifies and describes

adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

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

Reasoned Conclusion on the Significant Effects

Having regard to the examination of environmental information set out above, to the Environmental Impact Assessment Report and other information provided by the applicant, and to the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.
- A significant direct effect on land by the change in the use and appearance of a relatively large area of underutilised brownfield land to residential. Given the location of the site circa 2 kilometres from Limerick city centre and the public need for housing in the region, this would not have a significant negative impact on the environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of material on the site and the removal of potentially hazardous material from the site, and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.

- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.
- A positive effect on the streetscape as the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

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 density of development in this accessible urban 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 scale of development, would be acceptable in terms of impacts on traffic and pedestrian safety and convenience, would provide an acceptable form of residential amenity for future occupants.

The Board considered that, the proposed development would be compliant with Limerick City Development Plan 2010-2016, as extended, and would, therefore, be in accordance with the proper planning and sustainable development of the area. In deciding not to accept the Inspector's recommendation to refuse permission, the Board accepted and agreed with the recommendation of the planning authority to

grant permission and considered that the proposed density of 47 dwellings per hectare was in accordance with the policies of the Limerick City Development Plan 2010-2016, as extended, and in particular regard to Policy H.4 which directs applicants to have regard to 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. Whilst the Board noted the proposed density is marginally below the 50 dwellings per hectare the Inspector has referred to the Board is satisfied that on balance 47 dwellings per hectare at this greenfield location would be acceptable and would be in accordance with Ministerial guidelines and also Objectives 13 and 35 of the Project Ireland 2040 National Planning Framework. The Board considered the recent permission for a residential scheme An Bord Pleanála Reference Number ABP-310103-21 with a higher density however it noted the location of this development on a busy urban intersection and the student accommodation use and its location closer to Limerick city centre and associated services and amenities

The Board considered that the proposed layout was of a sufficiently high standard and density in terms of the appropriate use of serviced and zoned lands in the metropolitan area of Limerick City and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The mitigation and monitoring measures outlined in the plans and particulars, including inter alia the Natura impact statement and Environmental Impact Assessment Report 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. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

4. 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.

5. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. All findings of the submitted Stages 1 and 2 Road Safety Audit for the proposed development shall be incorporated into the development, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of amenity and of traffic and pedestrian safety.

6. It is considered that the proposed road layout requires redesign to meet the requirements of pedestrians and cyclists. The main spine road to the site from Dock Road and the associated roundabouts are not conducive to adequate and convenient pedestrian and cycling movement. A redesign, in line with the National Cycle Manual and the principles of 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, is necessary to allow greater priority and convenience to walking and cycling and to improve access to public transport on Dock Road.

Reason: In the interests of amenity and of traffic and pedestrian safety.

7. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. An off-street surface level loading bay or set-down area for the non-residential uses, including café and digital hub, shall be identified and allocated for these uses. Residential car parking spaces shall not be utilised for any other purpose, including for use in

association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

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

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed development.

8. Prior to the occupation of the development, a Mobility Management Strategy travel plan shall be submitted to and agreed in writing with the planning authority. This shall include modal shift targets and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents 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.

9. A minimum of 10 percent of all car parking spaces should be provided with electric vehicle charging stations or points, at least one of which should serve a car club or car share space, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points or stations at a later date.

Reason: To provide for and future proof the development such as would facilitate the use of electric vehicles.

10. 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 visual amenities of the area.

11. Prior to commencement of development, the developer shall enter into water and or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

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

(b) Prior to commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

(c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

(d) A maintenance policy to include regular operational inspection and maintenance of the Sustainable Urban Drainage System infrastructure and the fuel interceptors shall be submitted to and agreed in writing with the planning authority prior to the occupation of proposed development and shall be implemented in accordance with that agreement.

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

13. Public lighting shall be provided in accordance with a scheme, which shall include lighting along finalised pedestrian and bicycle routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take account of existing and permitted public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

14. 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. Any existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

15. (a) The site shall be landscaped in accordance with the landscaping scheme, which accompanied the application, unless otherwise agreed in writing with, the planning authority prior to the commencement of development.
- (b) details of the hard landscaping materials and boundary treatment shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of residential, visual amenity, public health and wastewater management.

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

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

17. 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.

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

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

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

19. Construction 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 provisions of 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.

20. The construction of the development shall be managed in accordance with a Construction 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) Location of the site and materials compound(s), including areas identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1 hertz to 80 hertz) and BS7385: Part 2 1990:

Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels.

- (j) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction and demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or watercourses;
- (n) A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

21. 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.

22. Prior to the commencement of any house or duplex unit in the development as permitted, the developer or any person with an interest in the land shall enter into an agreement with the planning authority such agreement must specify the number and location of each house or duplex unit, pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers, those not being a corporate entity, and or by those eligible for the occupation of social and or affordable housing including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

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

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

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

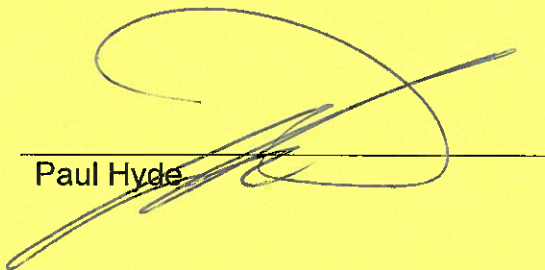
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

25. 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: 24/03/2022