

**An
Bord
Pleanála**

**Board Direction
BD-009902-22
ABP-311606-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/02/2022.

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 policies and objectives of the Dublin City Development Plan 2016-2022;
- b) The policies and objectives of the Naas Road Lands Local Area Plan 2013;
- c) The Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031', which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure;
- d) The Rebuilding Ireland Action Plan for Housing and Homelessness (Government of Ireland, 2016);
- e) The provisions of Housing for All - A New Housing Plan for Ireland, issued by the Department of Housing, Local Government and Heritage in September 2021;
- f) The National Planning Framework, Project Ireland 2040, which identifies the importance of compact growth;

- g) 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;
- h) 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;
- i) 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;
- j) The provisions of the Design Manual for Urban Roads and Streets issued by the Department of Housing, Local Government and Heritage in 2019;
- k) 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;
- l) 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;
- m) The pattern of existing and permitted development in the area;
- n) Section 37(2)(b) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development that materially contravenes a Development Plan;
- o) The submissions and observations received;
- p) The Chief Executive's report from the Planning Authority;
- q) The report of the Inspector.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on 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 and observations on file, the information submitted as part of the applicant's Appropriate Assessment and application documentation and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector and considered that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Impact Assessment Screening Statement submitted by the applicant, which contains the information set out in Schedule 7A to the Planning and Development Regulations 2001-2021, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. Having regard to:

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i) and 10(b)(iv) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2021;
- the location of the residential units, café and digital hub on lands zoned 'Z14' within the Dublin City Development Plan 2016-2022 for social, economic and physical development and/or rejuvenation of an area with mixed uses, of which residential and 'Z6' would be the predominant uses, the identification of the lands for substantive residential development in the Naas Road Lands Local Area Plan 2013 and the results of the Strategic Environmental Assessment of the Development Plan and the Local Area Plan;
- the nature of the existing site and the pattern of development in the surrounding area;

- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001-2021;
- 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);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001-2021, and;
- the features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Management Plan and the Construction and Demolition Waste Management Plan;

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable 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 and would comply with the provisions of the Naas Road Lands Local Area Plan 2013.

The Board considered that with the exception of building heights, the proposed development would be compliant with Dublin City Development Plan 2016-2022 and

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

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plan for the area, it would materially contravene the Dublin City Development Plan 2016-2022 in relation to building heights. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission, in material contravention of the Dublin City Development Plan 2016-2022, would be justified for the following reasons and considerations;

- the proposed development is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase the delivery of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016 and to facilitate the achievement of greater density and height in residential development in an urban area close to public transport and centres of employment. Accordingly, the provisions set out under section 37(2)(b)(i) are applicable;
- it is considered that permission for the proposed development should be granted having regard to Government policies, as set out in the National Planning Framework, in particular objectives 13 and 35, and the application of Specific Planning Policy Requirement 3(a) of the Urban Development and Building Heights Guidelines for Planning Authorities (2018). Accordingly, the provisions set out under section 37(2)(b)(iii) are applicable.
- the Board has previously approved a 24.2m high building (ABP-304383-19) and 18.9m to 77.8m high buildings (ABP-307804-20) on sites adjoining and 250m respectively to the northwest of the application site. The proposed development is continuing on that pattern of permitted development, as well as the pattern of existing development on the adjoining associated phase 1 Carriglea Industrial Estate lands and in the adjacent Lansdowne Gate apartment development. Accordingly, the provisions set out under section 37(2)(b)(iv) are applicable with respect to the proposed building heights.

1.0 Conditions

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

Reason: In the interest of clarity.

2. Revised details shall be submitted with regard to the following:
 - (a) revised elevation details and/or landscaping breaking up the appearance of the car park gable wall structure situated between blocks F and G facing onto the surface-level pedestrian / cycle route;
 - (b) revised landscape layout to provide privacy strips fronting the living-room windows and terraces serving apartments D1.06 and D1.07 on the south side of block D, fronting the terraces serving apartments E_03, E_04 and E_06 on the south side of block E, fronting the bedroom window serving Apt. 07 on the east side of block H and along the bedroom and dining room of the south-east facing windows serving the podium-level southeast corner apartment in block K;
 - (c) segregation and provision of a privacy screen between the terraces serving apartments E_03 and E_04 of block E and provision of privacy screens to the terraces serving block F podium-level apartments 1 and 6;

- (d) provision of opaque glazing in the east-facing panels of the box windows serving apartments 17, 18, 21 and 22 on the third and fourth floors of block H and opaque glazing in the narrow windows to the kitchens serving apartments L1.01, L2.07, L3.13, L4.19, L6.31 and L7.41 in block L;
- (e) provision of opaque glazing in the east-facing windows serving bedroom nos.2 to apartments 7 and 13 in block H or the replacement of these east-facing windows with high-level east-facing windows and additional north-facing windows;
- (f) revised layouts for the two studio apartments in blocks H and J to provide for natural lighting of their respective living and bedroom areas;
- (g) provision of a pedestrian and cycle route on site connecting into Carriglea Drive and provision of a pedestrian and cycle route on site to provide for a future potential level connection to the permitted development on the Concordia Industrial Estate site (ABP ref. 304383-19);
- (h) provision of a pedestrian and cycle route connection on site, as indicated in the Naas Road Lands Local Area Plan 2013, extending to the southern boundary with the Drimnagh Castle Post-Primary Schools grounds, to provide for a future potential level connection to these adjoining lands;
- (i) provision of eight non-standard (cargo) cycle parking spaces and secure visitor cycle parking spaces with improved levels of passive surveillance.

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 visual and residential amenity, traffic and pedestrian safety.

3.
 - (a) The development shall be carried out on a phased basis, in accordance with a phasing scheme, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The phasing scheme shall identify how vehicular access, as well as a sufficient quantum of car and cycle parking spaces to serve residents, occupants and visitors of the previously permitted phase 1 development and the subject phase 2 development, would be provided throughout the construction phases of the development.
 - (b) The development hereby permitted shall not be made available for occupation until such time as all enabling infrastructure, including the linear park public open space within the previously permitted phase 1 development and the subject phase 2 lands, are completed to the written satisfaction of the planning authority.

Reason: To ensure the timely provision of services and facilities, for the benefit of the occupants of the proposed and permitted dwellings and the satisfactory completion of the overall development.

4. 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.

5. The following requirements shall apply to the proposed café unit:
 - i) Prior to the occupation of the café and digital hub, details of any proposed signage to be applied to the elevations of the building, including

details of the materials, colour, lettering and depth of the signage shall first be submitted to and agreed in writing with the Planning Authority.

ii) The glazing to the café unit shall be kept free of all stickers, posters and advertisements.

iii) The café shall operate only between the hours of 0700 to 2200 hours Monday through Sunday.

iv) Permission is for café use, where no hot food preparation on the premises is permitted. Any change to this arrangement shall be subject to a separate grant of planning permission.

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

6. 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.

7. 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. 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.

8. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. An off-street surface-level loading bay/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.

9. 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.

10. A minimum of 10% of all car parking spaces should be provided with electric vehicle (EV) charging stations/points, at least one of which should

serve a car club / car share space, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

11. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations. Audio equipment / speakers shall not be operated from the external seating areas to the café.

Reason: In the interests of residential amenity.

12. 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.

13. The developer shall enter into water and / or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

14. 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 interest of public health and surface water management.

15. Public lighting shall be provided in accordance with a scheme, which shall include lighting along finalised pedestrian / cycle 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.

16. 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.

17. a) The site shall be landscaped and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, including the Landscape Specification Report, 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.
- c) the locations of trees and planting along the western boundary following and addressing a 3-metre-wide wayleave for an existing 225mm-diameter Irish Water sewer 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.

18. 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.

19. 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.

20. (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.

21. 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.

22. 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 (1Hz to 80Hz) 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/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.

23. 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.

24. 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.

25. 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.

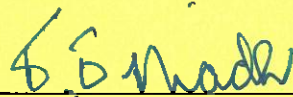
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

26. 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



Terry Ó Niadh

Date: 01/02/2022