

**An  
Bord  
Pleanála**

**Board Direction  
BD-010908-22  
ABP-311691-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/06/2022.

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**

Having regard to the residential zoning objective as set out in the Dublin City Development Plan 2016-2022, national and local policy objectives which support the redevelopment of brownfield/infill sites, the subject site's proximity to public transport, services/amenities and employment sources, the design, layout and scale of the proposed development and the existing and emerging pattern of development in the vicinity, it is considered that, subject to compliance with conditions set out below, the proposed development would appropriately intensify residential use on this suitably located infill site, would constitute an acceptable height, quantum and density of development in this accessible urban location, would be acceptable in terms of design, height, layout and scale of development, would provide a suitable level of accommodation and amenity for future occupants, would not seriously injure the amenities of the area or properties in the vicinity, would be acceptable in terms of traffic safety/parking provision and would comply with the provisions of the Dublin City Development Plan 2016-2022, the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (Department of

Housing, Planning and Local Government, 2020), particularly section 5 which provides for purpose-built residential accommodation for long term rental, and the Urban Development and Building Height - Guidelines for Planning Authorities (December 2018). The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Screening**

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

In completing the screening exercise, the Board adopted the report of the Inspector and concluded that by itself or in combination with other plans or projects, the proposed development would not be likely to have significant effects on any other European site, in view of the sites' conservation objectives. The Board considered that a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not, therefore, required.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 25<sup>th</sup> day of August, 2021, 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. The total number of residential units permitted in this development is 50 number units.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:

- (a) The windows of the double bedrooms of apartment numbers 7, 17, 27 and 40 shall be positioned further east and/or redesigned at an angle so as to restrict overlooking onto adjoining properties.
- (b) The proposed upper level balconies serving apartments that face south onto the adjoining development and open space at Kenilworth Manor (apartment number 21, 22, 23, 24 and 25 on the first floor, apartment number 35,36,37,38, 39 on the second floor and apartment number 44, 45, 46, 47 and 48 on the third floor) shall be redesigned so as to include effective privacy screening to restrict overlooking onto adjoining properties.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To adequately protect residential amenity of adjoining properties.

3. The development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

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

4. Prior to the commencement of development, the developer shall submit details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no

individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

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

5. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a build-to-rent scheme. Any proposed amendment or deviation from the build-to-rent model, as authorised in this permission shall be subject to a separate planning application.

**Reason:** In the interests of orderly development and clarity.

6. 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.

7. Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the management company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

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

8. (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company.
- (b) A map delineating those areas to be taken in charge by the local authority and details of the legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential or commercial units are made available for occupation. The management scheme shall provide adequate measures for the future maintenance of public open spaces, roads and communal areas.

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

9. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

10. 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.

11. Proposals for an apartment naming/numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signage shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer

has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility.

12. 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.

13. The construction of the development shall be managed in accordance with a Construction 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 noise management measures and off-site disposal of construction/demolition waste.

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

14. (a) 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 for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

- (b) This plan shall provide for screened communal bin stores, 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.

- 15. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

- 16. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Residential car parking spaces shall not be utilised for any other purpose 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, cycle, motorcycle and car-share club parking, as well as turning areas, shall be continually managed.

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

17. (a) All of the communal car parking spaces shall be provided with electric vehicle charging stations or points.
- (b) Electric charging facilities shall be provided for cycle parking and proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Details of how it is proposed to comply with these requirements including details of the design of, and signage for, the electric charging points (where they are not in areas to be taken in charge) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of facilitating sustainable and active transport modes.

18. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

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

19. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.



**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

20. 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.

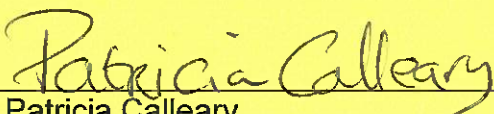
21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection 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.

22. 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**

  
Patricia Calleary

**Date:** 21/06/2022