

An
Bord
Pleanála

Board Direction
BD-010156-22
ABP-311826-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 02/03/2022.

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 set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022
- (b) The policies and objectives set out in the Goatstown Local Area Plan 2012 (as extended to 10th April 2022),
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness, 2016, and Housing for All – A New Housing Plan for Ireland, 2021,
- (d) Urban Development and Building Heights, Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,
- (e) 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 2013, as amended, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009

- (f) The Guidelines for Sustainable Residential Development 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 Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December 2020,
- (h) Architectural Heritage Protection – Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2014,
- (i) 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 report of the Chief Executive of Dun Laoghaire Rathdown County Council, and
- (p) 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 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 Appropriate Assessment Screening 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 screening of the proposed development and considered the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. Having regard to:

- a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) The location of the site on lands governed by zoning objective A, which seeks to 'protect and-or improve residential amenity' in the Dun Laoghaire Rathdown Development Plan 2016-2022
- c) The existing use on the site and pattern of development in surrounding area,
- d) The planning history relating to the site,
- e) The availability of mains water and wastewater services to serve the proposed development,
- f) The location of the development outside of any sensitive location specified in article 299(C)(1)(a)(v)(I) of the Planning and Development Regulations 2001 (as amended),
- g) 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),

- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- i) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in 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 residential density at this 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 quantum of development, as well as in terms of traffic and pedestrian safety and convenience. The proposal would, subject to conditions, provide an acceptable form of residential amenity for future occupants.

The Board considered that the proposed development is, apart from the building height parameters, broadly compliant with the current Dun Laoghaire Rathdown County Development Plan 2016-2022 and Goatstown LAP 2012 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 Dun Laoghaire Rathdown County Development Plan 2016-2022 and Goatstown LAP 2012 would be justified for the following reasons and considerations:

● With regard to S.37(2)(b)(i), the proposed 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. The application site is located within the Goatstown area, which the LAP recognises has a limited number of infill sites suitable for redevelopment. The proposal would deliver 227 residential units in a compact urban form on an accessible and serviced urban greenfield site, and has the potential to deliver on the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness (July 2016), and Housing for All – A New Housing Plan for Ireland (2021).

● With regard to S.37(2)(b)(iii), the proposed development in terms of height is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13 and NPO 35 and is in compliance with the Section 38 guidance Urban Development and Building Height Guidelines, in particular SPPR3.

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. Mitigation and monitoring measures outlined in the plans and particulars submitted with this application, including in the Ecological Impact Assessment, 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 the commencement of any development works an updated Japanese Knotweed Management Plan, including a program of measures to eliminate alien invasive plant species, shall be submitted to and agreed in writing with the planning authority prior to commencement of development, which shall be agreed in writing with the planning authority in consultation with the NPWS.

Reason: To ensure the control of an invasive alien plant species, namely Japanese Knotweed and to protect biodiversity.

4. Prior to commencement of any works on site, revised details shall be submitted with regard to the following:
 - a. Full details of privacy screens between balconies of the apartments.
 - b. Full details of wintergarden system.
 - c. Full details of green roofs/podiums to the buildings.

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.

5. Prior to the commencement of development, the licence agreement between the developer and DLRCC to facilitate the provision of a Construction Access Road to the Dublin Eastern By Pass Route shall be submitted to the planning authority. The exact road reservation line shall be agreed and the road reservation line co-ordinates shall be marked on site in consultation with the planning authority.

Reason: In the interests of proper planning and sustainable development and to safeguard the amenities of the area.

6. Prior to the commencement of development, the developer shall insert a footpath on the western side of the access street Knockrabo Way, as designed and permitted under D17A/1124.

Reason: In the interests of proper planning and sustainable development and to safeguard the amenities of the area.

7. No residential units shall be made available for occupation prior to the completion and opening of the development at Cedar Mount and its 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.

8. The proposed development shall not be gated to external boundaries and all routes shall be permanently accessible.

Reason: In the interest of permeability and to safeguard the amenities of the area.

9. 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.

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 residential amenities of property in the vicinity and the visual amenities of the area.

11. 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.

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. Bat and artificial lighting in the UK, and signed off on by an ecologist 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 design, layout, access, 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/undercroft 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.

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, 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 monthly basis to ensure the implementation of all of the recommendations in the tree reports and plans.
- 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. 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) 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.

25. 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 is 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 topsoil 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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, environmental nuisance measures including noise and dust management measures and off-site disposal of construction/demolition waste.

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

31. 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.

32. 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.

33. 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.

34. 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

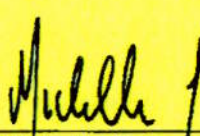
provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. 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

35. 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 or 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


Michelle Fagan

Date: 03/03/2022