

An
Bord
Pleanála

Board Direction
BD-010502-22
ABP-312275-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/04/2022.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

In coming to its decision, the Board had regard to the following:

- a. The site's location on lands with a zoning objective for residential development;
- b. The policies and objectives in the South Dublin County Development Plan 2016 - 2022
- c. Nature, scale and design of the proposed development;
- d. Pattern of existing development in the area;
- e. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- f. Housing for All – A New Housing Plan for Ireland, 2021
- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;

- h. Regional Spatial and Economic Strategy for the Eastern and Midland Region;
- i. 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;
- j. 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 2013;
- k. Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020 ;
- l. The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- m. The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) 2009;
- n. Chief Executive’s Report;
- o. Inspector’s Report; and
- p. Submissions and observations received.

It is considered that, subject to compliance with the conditions set out below, the proposed development 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 and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment:

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 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 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

The Board completed a screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Statement submitted by the applicant, 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 Class 10(b)(i) and Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.
- the location of the site on lands zoned RES: to protect and / or improve residential amenity in the South Dublin Development Plan 2016-2022. The development plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- 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 (as amended), and

- The features and measures proposed by the 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, Operational Waste and Recycling Management Plan, Ecological Impact Assessment, Statement of Screening for Appropriate Assessment, EIA Screening Report and Statement in Accordance with Article 299(B)(1)(b)(ii)(II)(C), Engineering Assessment and Surface Water Drainage Design Report and Impacts of Modifications to Approved Development at St. Edmund's upon the local Bat Fauna.

In conclusion, having regard to the absence of any significant environmental sensitivity in the vicinity and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development 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 the proposed development is, apart from the parameters of the Building Height as set out in Policy H9 and Section 11.2.7 (Height) and Policy H8 Objective 6 (Density) of the South Dublin County Development Plan 2016-2022 broadly compliant with the provisions of the South Dublin County Development Plan 2016-2022 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the provisions of the South Dublin County Development Plan 2016-2022 with regard to building height and density.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the South Dublin County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- The subject site has an area of c. 2.72 ha and would deliver 313 no. residential units in the urban area. The site's suburban location supports the consolidation of the urban environment as outlined in within the Metropolitan Area Strategic Plan (MASP), which is part of the Regional Spatial and Economic Strategy. The provision of a significant quantum of residential units is also in accordance with the government policy as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness and Housing for All – A New Housing Plan for Ireland. The sites is also located in close proximity to high frequency and high-capacity public transport and employment hubs and a range of services and facilities within Liffey Valley Shopping Centre. It is, therefore, considered that this scheme is strategic by reason of its location and scale, and is critical and integral to the success of national policy, in addressing both housing and homelessness in the City and consolidating the urban environment. The proposed material contraventions are, therefore, justified by reference to section 37(2)(b)(i) of the act.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Policy H9 and Section 11.2.7 (Height) of the South Dublin County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- Objectives 13, and 35 of the National Planning Framework which support increased residential densities and building heights at appropriate locations.
- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights and densities.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Policy H8 Objective 6 (Density) of the South Dublin County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- Objective 35 of the National Planning Framework which supports increased residential densities at appropriate locations.

- RPO 5.4 and RPO 5.5 of the Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019 which encourage the provision of higher densities and the consolidation of Dublin and suburbs.
- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights and densities.

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. The proposed development shall be amended as follows: -
 - a. The windows serving units 12, 18 and 24 in Block 3 shall be staggered and the windows serving units 11, 17 and 23 in Block 3 shall be staggered so that they do not align in order to avoid overlooking
 - b. The southern elevation of the communal open space at the roof top level (fourth floor level) of Block 3 shall be appropriately screened with obscure glazing or planting a minimum of 1.8m in height
 - c. Car parking space numbers 52, 53, 64 and 65 (4 no.) along the sites northern eastern boundary shall be permanently omitted and additional trees and / or planting be provided.

Reason: In the interest of residential and visual amenity

3. The proposed render finish shall be omitted from the external materials of Blocks 2, 3 and 4. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors 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 interest of visual amenity and to ensure an appropriate high standard of development.

4. Details of signage relating to the creche unit shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Prior to the commencement of development, the applicant shall agree in writing with the planning authority the final layout of the 4,400sqm area of public open space at the eastern boundary of the site.

Reason: in the interest of clarity and to ensure an appropriate high standard of development.

6. Prior to the commencement of development, the applicant shall agree in writing with the planning authority the final details of furniture and equipment including seating areas and play spaces to be provided within the areas of communal and public open space.

Reason: In the interest of residential amenity and to ensure an appropriate high standard of development.

7. Prior to the commencement of development, the applicant shall agree in writing with the Planning Authority the requirement for a piece of public art within the site. All works shall be at the applicant's expense.

Reason: In the interest of place making and visual amenity.

8. The boundary planting and areas of communal open space and public open space shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

9. Prior to the occupation of the residential units, a 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. 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. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. 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 the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and to prevent inappropriate commuter parking.

11. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle 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

12. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

13. 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.

14. 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 signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. 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 and to ensure the use of locally appropriate place names for new residential areas.

15. 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.

16. The developer shall enter into water and wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

17. 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

18. 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.

Reason: In the interest of sustainable waste management.

19. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

20. 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 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.

21. 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.

22. 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.

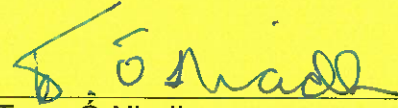
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge

23. 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.

Plus: Model ABP conditions on Electric bikes and Operational Waste management Plan.

Board Member



Date: 12/04/2022

Terry Ó Niadh

