

An
Bord
Pleanála

Board Direction
BD-011047-22
ABP-312501-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/07/2022.

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

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.

Reasons and Considerations:

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

- (a) the location of the site contiguous to the evolving settlement area of Saggart/Citywest an area zoned for residential under Land Use Zoning Objective RES and RES-N where residential development is permitted in principle **under** the South Dublin County Development Plan 2016-2022 and under Land Use Zoning Objective OS where the publicly accessible pedestrian/cycle link is located.
- (b) the policies and objectives of the South Dublin County Development Plan 2016-2022
- (c) The nature, scale and design of the proposed development and the availability in the area of infrastructure;
- (d) The pattern of existing and permitted development in the area;
- (e) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (f) The provision of Housing for All, A New Housing Plan for Ireland 2021;
- (g) 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;
- (h) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- i) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2020;
- (j) 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) The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) 2009;
- (l) The submissions and observations received;
- (m) The Chief Executive Report from the Planning Authority

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, 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: Stage 1

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, scale and location of the proposed development within a zoned and serviced urban area, the Screening Report for Appropriate Assessment submitted with the application, and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that the proposed development, individually or in combination with other plans or projects, 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 (and submission of a Natura Impact Statement) 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 Report 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:

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- a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) The location of the site on lands zoned "RES-N" and "RES" where residential development is permitted in principle and "OS" where the pedestrian/cycle link is acceptable and the results of the Strategic Environmental Assessment of the Plan.
- (c) The pattern of development in surrounding area;
- (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)(v) 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 Preliminary Construction and Demolition Waste Management Plan (pCDWMP), Preliminary Construction Management Plan (pCMP), , the Operational

Waste Management Plan and the Infrastructure Services Report, the Ecological Impact Assessment, the Archaeological Impact Assessment The Arboricultural Inventory & Impact Assessment, the Inward Noise Assessment and the Architectural Design Statement and the Landscape Design Report

The Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable

The Board considered that, the development could be granted subject to compliance with the conditions set out below and that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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

In relation to section 37(2)(b) (i) of the Planning and Development Act 2000 (as amended):

The current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature. National policy as expressed within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 fully support the need for urban infill residential development, such as that proposed on this site.

In relation to section 37(2)(b) (Ili) of the Planning and Development Act 2000 (as amended):

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 27, 33 and 35), the 'Dublin Metropolitan Area Strategic Plan' (in particular the provisions relating to 'Saggart'), the 'Urban Development and Building Height Guidelines for Planning Authorities' issued in 2018 (in particular section 3.2, Specific Planning Policy Requirement 3 and Specific Planning Policy Requirement 4), 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities', issued in 2020 (in particular section 2.16 - 2.22 and Specific Planning Policy Requirement 1, 2 and 3) and the 'Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual' issued in 2009 (in particular section 5.8).

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may 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, including the Ecological Impact Assessment, Arboricultural Inventory & Impact Assessment, Infrastructure Design Report, Landscape Design Report, Inward Noise Assessment Preliminary Construction Management Plan, and Preliminary Construction and Demolition Waste Management Plan with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be

referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

4. The proposed development shall be amended as follows:

- (a) Revised plans and particulars for Block A which shall be reduced in height by the omission of the two top floors.
- (b) Windows above ground floor level on the rear elevation of House Type 3 at Nos. 2 to 11, adjoining the south western site boundary shall have permanent opaque glazing.
- (c) Parking spaces located along the perimeter of public open space area POS 01 shall be omitted and the area used for public open space.

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: In the interests of aviation safety and proper planning and sustainable development.

5. This permission is for a development of 266 units comprised of 177 apartments, 51 houses, 38 duplex and a creche only.

Reason: In the interest of clarity.

6. a) Prior to commencement of development final details of the proposed new pedestrian and cycle connection along the Mill Road, bus stops and all required site works shall be submitted to and agreed in writing with the planning authority.

b) Prior to commencement of development final details of the proposed new pedestrian and cycle connection through the lands to the east (golf course), and all required site works including lighting and confirmation of full 24 hour access shall be submitted to and agreed in writing with the planning authority. This pedestrian and cycle connection shall be completed and open for use, prior to the making available for occupation of the residential units.

c) all links/connections to adjoining lands (within and outside the applicants control) shall be provided up to the site boundary to facilitate future connections subject to the appropriate consents.

Reason: In the interest of permeability and safety.

7. (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 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 retained trees 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/hedging which are to be retained on the site.

Reason: To protect trees/hedgerow and planting during the construction period in the interest of visual amenity.

8. 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 DMURS. Specifically internal road widths shall have a maximum range of 5 to 5.5 metres. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

9. 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 /installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed is made available for occupation.

Reason: In the interest of public safety and visual amenity.

10. 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, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

11. Site and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays and between 0800 and 1400 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.

12. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

13. Drainage arrangements including the attenuation and 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 and surface water management

14. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage 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 has 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

15 The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and 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 and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

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

16. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, 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 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 in the interest of residential amenity.

17. The boundary planting and public open spaces 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. 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. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

18. Prior to commencement of any permitted 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 a 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 in the submitted Arboricultural Inventory and Impact Assessment Report and accompanying documents. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1 March–31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to 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 the planning authority upon completion of the works.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

19. 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.

20. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

21. 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.

22. a) appropriate management methods during construction shall be employed to avoid sites becoming bird attractant.

b) Mitigation measures shall be taken if negative effects on Irish Air Corps flight operations become apparent due to bird activity on site.

c) Crane activities at the site shall be coordinated with Military Air Traffic Services (ATS) at least 90 days in advance for assessment of proposed crane activities.

d) Prior to the commencement of development an aviation obstacle warning lighting scheme for the development shall be agreed with Military Air Traffic Services.

Reason: In the interests of aviation safety.

23. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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 ,

b. employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and c. provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to

remove. 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 site and to secure the preservation and protection of any remains that may exist within the site.

24. Proposals for a naming 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 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 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.

25. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located. 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.

26. 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.

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

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

28. 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 plan of the area.

29. 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

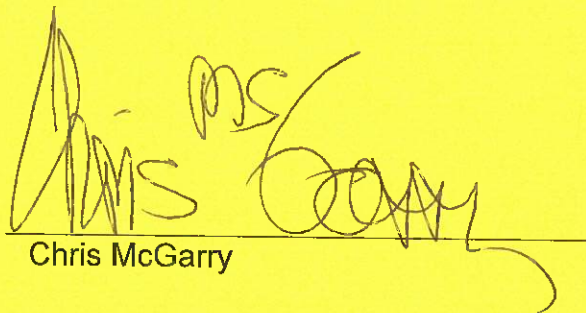
30. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Contribution 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

Contribution Scheme made under section 48 of the Act be applied to the permission.

Note: The Board noted the recommendation of the Inspector to reduce Block A by three storeys, having regard to aviation safety and also to height and density. The Board shared the Inspector's view that a reduction in height was warranted to address the issue of aviation safety, though the determination of the Board was that a reduction of two storeys would be sufficient for this purpose. On the issue of height and density, the Board considered the specific location of Block A on the site, the modest form of the upper three floors and the limited number of residential units therein and concluded that, this scale, form and layout would not be inappropriate at this specific location, other than by reason of the aviation related concerns.

Board Member

A handwritten signature in black ink, appearing to read 'Chris McGarry', is written over a horizontal line. The signature is stylized and includes some additional scribbles above it.

Date: 29/07/2022

