

An  
Bord  
Pleanála

**Board Direction**  
**BD-010943-22**  
**ABP-312539-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/06/2022.

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.

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 in an established urban area, with the zoning objectives for the site allowing for residential development;
- (b) the relevant policies and objectives of the Dublin City Development Plan 2016-2022;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) Housing for All - a New Housing Plan for Ireland 2021;
- (e) the National Planning Framework which identifies the importance of compact growth;

- (f) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (g) The provisions for the National Student Accommodation Strategy issued by the Department of Education in July 2017;
- (h) 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 and particularly Specific Planning Policy Requirement 3;
- (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) Architectural Heritage Protection – Guidelines for Planning Authorities (2011);
- (m) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (n) The pattern of existing and permitted development in the area;
- (o) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan or a Local Area Plan;
- (p) The submissions and observations received;
- (q) The Chief Executive Report from the Planning Authority; and
- (r) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.



## **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 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. In particular, the Board agreed with and adopted the Inspector's assessment and conclusion that a Stage 2 Appropriate Assessment was not required notwithstanding the submission of an NIS by the applicant for permission which proceeded on the basis that a Stage 2 Appropriate Assessment was 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 relevant thresholds in respect of Class 10(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) The existing use on the site and pattern of development in surrounding area;
- (c) The availability of mains water and wastewater services to serve the proposed development,

(d) 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)

(e) 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),

(f) The totality of the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

(g) 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 Environmental Report, the Noise & Vibration Impact Assessment, the Arboricultural Assessment Tree Survey, the Basement Impact Assessment, the Ecological Impact Assessment, the Construction & Demolition Waste Management Plan, the Construction & Environmental Management Plan and the Civil Engineering Infrastructure Report including Flood Risk Assessment, the Board did not consider that the proposed development would 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 that the proposed development would constitute an acceptable quantum 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 safety and would provide an acceptable form of residential amenity for future occupants. The proposed development 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 Dublin City Development Plan 2016-2022, with regard to building height.



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 provisions of Section 16.7. 2 'Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development' of the Dublin City Development Plan 2016-2022' would be justified for the following reasons and considerations:

- The current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature, in that it is part of a cumulative response to a strategic issue of national importance (i.e. the provision of housing and compact urban growth). National policy as expressed within 'Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness', 'Housing for All - a New Housing Plan for Ireland 2021' and the National Planning Framework – Ireland 2040 fully support the need for urban infill residential development. The proposal represents the regeneration of an important site and makes a contribution to the housing stock, of some 358 no. student bedspaces, and therefore seeks to address a fundamental objective of the Housing Action Plan, and as such addresses a matter of national importance, that of housing delivery;
- Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth and seeks to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements;
- The Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs;
- The Urban Development and Building Height Guidelines (2018), state that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas through enhancing the scale of development. It is further set out that building heights must be generally increased in appropriate urban locations, subject to the specific criteria as set out in Section 3.2 of the Guidelines, which the Board considers have been satisfactorily addressed in this instance.

## 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. The proposed development hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided under section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended), and shall not be used for any other purpose without a prior grant of planning permission for change of use.

**Reason:** In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

3. a) The student accommodation and complex shall be operated and managed in accordance with the measures indicated in the Student Accommodation Management Plan submitted with the application.

(b) Student house units shall not be amalgamated or combined.

**Reason:** In the interest of the amenities of occupiers of the units and surrounding properties.

4. All mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment, the Arboricultural Assessment, the Construction and Environmental Management Plan (CEMP), the Site Specific Flood Risk Assessment, the Noise & Vibration Impact Assessment,



the Basement Impact Assessment and subsequent reports submitted 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.

5. The following requirements of the Conservation Officer shall be undertaken under the supervision and specification of an expert in architectural conservation and as such shall be confirmed in writing by that expert on behalf of the applicant and submitted to the planning authority prior to the commencement of development:
  - a) A conservation expert with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works relating to the Protected Structures and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained buildings and facades, structure and/or fabric.
  - b) All works to the protected structures shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities and Advice Series issued by the Department of Arts, Heritage and the Gaeltacht, October 2011. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
  - c) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.
  - d) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.
  - e) The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structures and their setting.

f) The fabric from the historic boundary wall to the rear of Greenane shall be incorporated into the new landscaping works and/or used in repair works to the historic boundary wall onto Temple Road, and that the applicant submits a drawing indicating where the fabric will be used.

**Reason:** To safeguard the special architectural interest of the protected structures.

6. The following requirements of the Conservation Officer shall be submitted to the Planning Authority prior to the commencement of development:
- a. Detailed drawings at a larger scale (1:20, 1:10) to illustrate the junction between the glass rooflight and the rear wall/window sill of Oldham Hall House, and the proposed rainwater disposal details from this glazed rooflight
  - b. Revised elevation and plan drawings of improved locations for 3no. proposed new doors at ground floor level of Oldham Hall House (rear elevation)
  - c. Detailed drawings 1:20. 1:10 details of the proposed stepped terraced rain gardens on the roof of the new Forum Building and Block C to illustrate roof finishes, capping details, stone courses etc.
  - d. Detailed survey drawing and photographic survey of the boundary wall onto Temple Road, to ensure that all consolidation and conservation repairs are identified and executed as part of the proposed works. 1:20 drawing and 1:10 details shall be submitted of the proposed altered gate position, including making good and new gates.
  - e. Further details shall be submitted of the board marked concrete and stone elevations to fully describe the articulation and junctions between the materials, and stone joints which will contribute to the variety of the textures and patterns arising.
  - f. A condition survey is executed of the Protected Structures and that critical conservation works are carried out as part of the development.

**Reason:** To safeguard the special architectural interest of the protected structures.



7. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:
- a. A Construction Environmental Management Plan (CEMP) shall be submitted to the planning authority for written agreement. The CEMP shall have regard to the construction principles and measures outlined in the Construction Environmental Management Plan (Barrett Mahony Consulting Engineers, November 2021). The CEMP shall provide details of intended demolition and construction practice for the development, construction phasing and programme including a detailed construction Traffic Management Plan (TMP), hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.
  - b. The re-positioned south eastern vehicular entrance on Temple Road shall be limited to emergency vehicles unless otherwise agreed in writing with the planning authority.
  - c. Prior to the commencement of the development, all works to the public road and footpath to facilitate vehicular access to the development shall be agreed in writing with DCC Environment and Transportation Department, including alterations to footpath and kerb dishing, line markings and relocation or removal of the lamp standard. The existing street tree located at the entrance shall be retained and protected. Works and materials shall be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council. Any works shall be at the applicant/developer's expense and note that fees are applicable to the removal of Pay and Display permit parking bays.
  - d. Prior to the commencement of the development, revised cycle parking design for the 183 no. resident spaces with improved security measures, such as the inclusion of secure compounds with key/fob access shall be submitted for the written agreement of the planning authority. The details thereby approved shall be implemented in full accordance with approved

plans prior to the occupation of any part of the development hereby approved.

- e. The developer shall undertake to implement the measures outlined in the Mobility Management Plan and to ensure that staff and residents comply with this strategy.
- f. All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of development, shall be at the expense of the developer.
- g. The developer shall be obliged to comply with the requirements set out in the Code of Practice.

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

- 8. Proposals for the development name and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, shall be provided in accordance with the agreed scheme. The proposed name(s) 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.

- 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 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. 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 3 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 development of the public and communal open space areas, and their continued use for this purpose.

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

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

12. Water supply and the arrangements for the disposal of foul water, shall comply with the requirements of the Irish Water for such works and services.

**Reason:** In the interest of public health and to ensure a satisfactory standard of development.

13. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Irish Water.

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

14. 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.

15. 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 for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

16. 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.

17. 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:** In the interests of orderly development and to provide for and future proof the development as would facilitate the use of electric bicycles.

18. The construction of the development shall be managed in accordance with a Final 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 inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise and vibration management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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

19. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

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

20. 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.

21. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. 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.

22. 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.

23. 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.

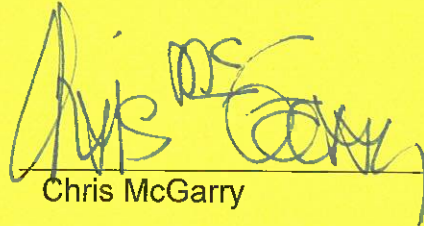
24. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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 for Dublin City Council 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**



Chris McGarry

**Date:** 30/06/2022

