

An
Bord
Pleanála

Board Direction
BD-013668-23
ABP-312990-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/09/2023.

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

Reasons and Considerations

Having regard to the provisions of the Dún Laoghaire-Rathdown County Council Development Plan 2022-2028 and the zoning of the site, the National Planning Framework (2018), the Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities (May 2009), the Urban Development and Building Heights Guidelines for Planning Authorities (2018), the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (July 2023) and to the overall scale, design and height of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual and residential amenities of the area, would not be prejudicial to public health, 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 Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment

and conclusion in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of potential significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on European Sites: South Dublin Bay SAC [000210], Rockabill to Dalkey Island SAC [003000], North Dublin Bay SAC [000206], South Dublin Bay and River Tolka Estuary SPA [004024] and the North Bull Island SPA [004006], or any other European site, in view of the site's Conservation Objectives and that an Appropriate Assessment is not, therefore, required. This screening determination is based on the following:

- The nature and scale of the proposed development on fully serviced lands,
- The intervening land uses and distance from European sites,
- The lack of direct connections with regard to the Source-Pathway-Receptor model.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 3rd day of November, 2011 and the 28th day January, 2022, 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.

Reason: In the interest of clarity.

2. The proposed second floor of Block B shall be omitted such that Block B shall consist of three floors only.

Reason: In the interest of visual and residential amenity.

3. The development hereby permitted shall be limited to 27 number residential units only.

Reason: To ensure that the development shall be in accordance with the permission, and in the interests of clarity.

4. Details of the materials, colours and textures of all the external finishes to the proposed development 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. Water supply and 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.

6. Prior to commencement of development, the developer shall enter into a water and/or wastewater connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

7. Proposals for an apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

8. 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 roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

9. The internal road serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

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

10. The communal parking area serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

11. The developer shall ensure that the car parking spaces for the residential units must be sold off with the units and not sold separately, or let, to avoid non-take up by residents. The developer shall also give an undertaking in this regard, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of public safety and the proper planning and sustainable development of the area.

12. Prior to the occupation of the development, a Mobility Management Strategy (travel plan) 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 carsharing by residents 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. This strategy shall include site specific measures to discourage overspill parking in Peter Place.

Reason: In the interest of encouraging the use of sustainable modes of transport.

13. The landscaping scheme shown on the Landscape Masterplan drawing number 20502-1-100, as submitted to the planning authority on the 9th day of November, 2021, shall be carried out within the first planting season following substantial completion of external construction works.

Reason: In the interests of residential and visual amenity.

14. (a) The developer shall fully implement all recommendations contained in the Tree Protection Plan, drawing number TP2002 submitted to the planning authority on the 28th day of June 2021. Unless otherwise agreed in writing, in advance by the planning authority, the trees to be retained and removed shall be in accordance with the Landscape Masterplan drawing number 20502-1-100 received by the planning authority on the on the 28th day of June, 2021.
- (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.

Reason: In the interests of biodiversity and the protection of trees.

15. 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 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.

16. Detailed measures in relation to the protection of bats shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These measures shall be implemented as part of the development.

Reason: In the interest of wildlife protection.

17. All necessary measures shall be taken by the developer to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

18. 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. All

existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

19. 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 development,
 - (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.

20. 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 apartment.

Reason: In the interests of amenity and public safety.

21. The apartments shall not be used for any short-term residential letting.

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

22. Each proposed apartment unit shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

Reason: To prevent unauthorised development.

23. 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:

- (a) location of the site and materials compound(s), including areas identified for the storage of construction refuse;
- (b) location of areas for construction site offices and staff facilities;
- (c) details of site security fencing and hoardings;
- (d) details of on-site car parking facilities for site workers during the course of construction;
- (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) measures to obviate queuing of construction traffic on the adjoining road network;

- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and
- (l) means to ensure that surface water runoff is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

24. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how

the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

25. 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 prior to commencement of 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.

26. Site development and building works shall be carried out only between the hours of 0800 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.

27. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section

96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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

29. 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.

30. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Line B extension from the Sandyford Depot to Cherrywood, in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Note (1)

The Board shared the view of the Planning Authority and the Inspector that five storeys at Block A was an appropriate response for the site-specific considerations arising at this location having regard to the prevailing height in the area and in particular to, the Whinsfield development on the opposite side of the Sandyford Road and the precedent established by the Board on the adjoining site to the north under

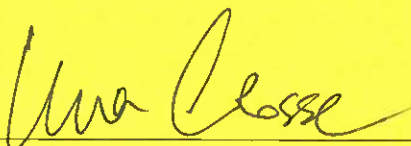
Ref. ABP-313443-22. The Board considered that the development would comply with the provisions of Policy BHS 3, in this regard.

In respect of Block B, the Board shared the view of the Planning Authority and disagreed with the Inspector in respect of, the appropriateness or otherwise, of a four-storey structure adjoining the eastern boundary and, in this respect, considers that three storeys adjoining this boundary would be a more appropriate response to the specific circumstances of the receiving environment. In this regard reference is made to the recently permitted development to the north of the site and the specific conditions attached to same in respect of height.

Note (2)

The Dun Laoghaire Rathdown County Development Plan 2022-2028 was the applicable statutory plan in place at the date of the Boards decision. In this regard, the Board considered in full all relevant provisions of the statutory plan. In doing so, the Board recognised that at the time of the decision of the planning authority, the Dun Laoghaire Rathdown County Development Plan 2016-2022 was in place. The Board noted that the relevant provisions of the current statutory plan as they would relate to the proposed development are comparable and no material issue arises therefrom. Furthermore, it is noted that the decision of the planning authority was largely confined to specific areas of concern regarding the potential impact of Block B on the residential amenity of the adjoining properties to the east. In overview therefore, the Board determined that the grounds of appeal and the material considerations arising therefrom, are not affected by or material to the relevant provisions of the current plan in any manner which of themselves are not materially different to the previous plan and which did not form part of the basis of the decision of the Board.

Board Member


Una Crosse

Date: 11/09/2023

