



An
Bord
Pleanála

Board Direction
BD-011418-22
ABP-313289-22

The submissions on this file and the Inspector's report were considered at Board meetings held on 26/10/2022 and 27/10/2022.

Reasons and Considerations

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 Dublin City Development Plan 2016 - 2022
- (c) Nature, scale and design of the proposed development;
- (d) Pattern of existing development in the area;
- (e) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (f) Housing for All – A New Housing Plan for Ireland, 2021
- (g) The provisions of Project Ireland 2040 National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018 which identifies the importance of compact growth;
- (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 provisions of 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 2019, as amended;
- (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) Submissions and observations received;
- (o) Chief Executive's Report; and
- (p) The report of the Planning Inspector,

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 Screening

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, in compliance with s.172 of the Planning and Development Act 2000, an Environmental Impact Assessment of the proposed development, taking into account:

- (a) The nature, scale and extent of the proposed development;
- (b) The Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) The submissions from the applicant, planning authority, third parties and the prescribed bodies in the course of the application; and
- (d) The Planning Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies, and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered that the main significant direct and indirect effects of the proposed development are as follows:³

- Population and human health impacts mitigated by appropriate construction and operational management plans. Direct positive effects with regard to

population and material assets due to the increase in population to help sustain and generate improvements to physical infrastructure in the area.

- Biodiversity impacts mitigated by additional planting/landscaping and appropriate work practices.
- Soils and geology impacts mitigated by construction management measures including removal of contaminated soil, minimal removal of topsoil and subsoil; management, maintenance of plant and machinery and dust suppression measures.
- Hydrology and Water Services impacts to be mitigated by management of surface water run-off during construction to prevent run off discharging directly into watercourses.
- Landscape and Visual impacts would be significant arising from the change in the use and appearance of a relatively large area of brownfield site to a residential site. Given the location of the site within the urban area and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Cultural Heritage - Architectural Heritage would be mitigated by landscaping. Given the location of the site within the urban area, no significant adverse direct, indirect or cumulative effects on Cultural Heritage - Archaeology are likely to arise.
- Climate and Air Quality impacts mitigated by dust minimisation plan.
- Traffic and Transportation impacts mitigated by the management of construction traffic by way of Construction and Environmental Management Plans
- Noise and Vibration impacts mitigated by adherence to requirements of relevant code of practice.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the

vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Conclusions on Proper Planning and Sustainable Development:

The Board 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/land in the vicinity, would be consistent with national and local planning policy and would be acceptable in terms of design, scale, height, unit mix and quantum of development, and 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 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 Section 16.7.2 Building Height and Section 16.10.1 Unit Mix of the Dublin City Development Plan 2016-2022.

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 Dublin City Development Plan 2016-2022 would be justified for the following reasons and considerations:

- The subject site has an area of c. 2.73ha and would deliver 472 no. residential units in the urban area. The site's urban 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 site is also located in close proximity to public transport and a range of services and facilities within the urban area. 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 Section 16.7.2 of the Development Plan as it relates to Building Height would be justified for the following reasons and considerations:

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

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 Section 16.10.1 of the Development Plan 2016-2022 as it relates to unit mix would be justified for the following reasons and considerations:

- SPPR 1 of the Sustainable Urban Housing: Design Standards for New Apartments

The Board considers that, having regard to the provisions of section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Section 16.7.2 of the Development Plan 2016-2022 as it relates to Building Height would be justified having regard to recent grant of permission in the vicinity of the site, as outlined below: -

- ABP-306721-20: for the construction of 124 no. apartments in a single block ranging in height from 5-6 storeys, with a maximum height of 22m, at the Bonnington Hotel, c. 200 south of the subject site.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 16 – Schedule of Mitigation Measures, 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. The proposed development shall be amended as follows:

The following adjoining 1-bed and studio units in Blocks A, B, F and G shall be amalgamated to form 2-bed units.

(a) Block A

Amalgamate Units A1-3 and A1-4 on the First Floor, A1-8 and A1-9 on the Second Floor, A1-13 and A1-14 on the Third Floor, A1-18 and A1-19 on the Fourth Floor and A1-21 and A1-22 on the Fifth Floor.

(b) Block B

Amalgamate Units B1-2 and B1-3 on the Ground Floor, B2-2 and B2-3 on the Ground Floor, B1-6 and B1-7 on the First Floor, B2-7 and B2-8 on the First Floor, B3-12 and B3-13 on the First Floor, B1-10 and B1-11 on the Second Floor, B2-12 and B2-13 on the Second Floor, B1-14 and B1-15 on the Third Floor, B2-17 and B2-18 on the Third Floor, B3-17 and B3-18 on the Third Floor, B1-18 and B1-19 on the Fourth Floor, and B2-22 and B2-23 on the Fourth Floor.

(c) Block F

Amalgamate Units F1-3 and F1-2 on the Ground Floor, F1-8 and F1-9 on the First Floor, F1-14 and F1-15 on Second Floor, F1-20 and F1-21 on the Third Floor, F1-27 and F1-26 on the Fourth Floor, F1-33 and F1-32 on the Fifth Floor

(d) Block G

Amalgamate Units G2-5 and G2-4 on the Ground Floor, G2-10 and G2-11 on the First Floor, G2-17 and G2-16 on the Second Floor, G2-23 and G2-22 on the Third Floor, G2-27 and G2-26 on the Fourth Floor, G2-31 and G2-20 on the Fifth Floor.

(d) Block G

Increase the height and width of the size the north-facing bedroom windows in the following apartments in Block G; G1-6 on the Ground Floor, G1-13 on the First Floor, G1-20 on the Second Floor, G1-27 on the Third Floor, G1-34 on the Fourth Floor and G1-41 on the Fifth Floor.

Revised plans and particulars 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 residential amenity including improved access to daylight, proper planning and sustainable development and to safeguard the amenities of the area.

4. Prior to commencement of development, a Construction Method Statement in relation to the Dublin Tunnel shall be submitted for the written agreement of the planning authority. The method statement shall contain a risk assessment of the works associated with the development for the Dublin Tunnel and contain monitoring and mitigation measures for those risks.

Reason: To protect existing public transport infrastructure in the area.

5. The proposed render finish shall be omitted from the external materials. 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.

6. Details of signage relating to the creche unit and café 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.

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

8. Prior to 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.

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. Electric charging facilities shall be provided for bicycle parking proposals should be submitted to and agreed in writing with the planning authority prior to the occupation of the development.

Reason: In the interest of orderly development and to provide for and future proof the development as would facilitate the use of electric bicycles.

13. 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.

14. 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.

15. 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.

16. 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.

17. A plan containing details for the management of waste within the development, including the provisions of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

18. The developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

19. Drainage arrangements including the 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.

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. 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.

22. 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.

23. 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.

24. 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.

25. 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

26. 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.

Board Member: Maria FitzGerald
Maria FitzGerald

Date: 20/10/2022