

An
Bord
Pleanála

Board Direction
BD-013101-23
ABP-313443-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/08/2023.

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

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

- (a) The location of the site in the established urban area of Dun Laoghaire Rathdown in an area subject to the 'A' zoning objective 'To provide residential development and improve residential amenity while protecting the existing residential amenities';
- (b) The policies and objectives of the Dun Laoghaire Rathdown County Development Plan 2022-2028;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) The Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage September 2021;
- (e) The nature, scale and design of the proposed development which is consistent with the provisions of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and appendices contained therein;
- (f) Project Ireland 2040 National Planning Framework;

- (g) The Guidelines for Planning Authorities on Sustainable Residential Development 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) The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of the Housing and Planning and Local Government, December 2020 and as updated in 2022;
- (i) The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013 (and Interim Advice note Covid 19 May 2020);
- (j) The Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (k) 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;
- (l) The planning history of the site and within the area;
- (m) The pattern of existing and permitted development in the area;
- (n) The Chief Executive's Report from the planning authority;
- (o) The submissions and observations received, and
- (p) The report and recommendation of the Inspector.

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 in the vicinity and would be acceptable in terms of pedestrian and traffic 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 Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that 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:

- The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended;
- Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended;
- The location of the site on lands governed by zoning objective 'A' 'To provide residential development and improve residential amenity while protecting the existing residential amenities.', under the Dun Laoghaire Rathdown County Development Plan 2022-2028, and the results of the strategic environmental

assessment of the Dun Laoghaire Rathdown County Development Plan undertaken in accordance with the SEA Directive (2001/42/EC);

- The existing use on the site and pattern of development in surrounding area;
- The planning history relating to the site;
- The availability of mains water and wastewater services to serve the proposed development;
- The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended);
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003);
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Demolition Management Plan.

it is considered that the proposed development would not 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 the development was compliant with the Dun Laoghaire-Rathdown County Development Plan 2022 - 2028 which is the statutory plan for the area. 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 consistent with national and local planning policy and would be acceptable in terms in terms of urban design, height and quantum of development and of pedestrian and traffic safety. The

proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows with reference to the architectural plans submitted with the application:
 - The part three/part four storey northern element of Block A shall be omitted such that the following units are omitted: Apartment A0-02; Apartment A1-03; Apartment A2-03; Apartment A3-01.
 - The second floor of Blocks C and D shall be omitted such that the following units are omitted: Block C - Apartment C2-01; Apartment C2-02; Apartment C2-03; Apartment C2-04; Apartment C2-05; Apartment C2-06; Apartment C2-07; Apartment C2-08; Block D - Apartment D2-01; Apartment D2-02; Apartment D2-03; Apartment D2-04; Apartment D2-05; Apartment D2-06; Apartment D2-07; Apartment D2-08; Apartment D2-09.
 - The following units shall be amalgamated to provide for 3-bedroom units:
Block B - Apartment B1-08 and the hot desk office unit directly to the west of Apartment B1-08;
Block C - Apartment C0-04 and the gym unit directly to the west of Apartment C0-04;

Block D - Apartment D0-05 and the hot desk office unit directly to the west of Apartment D0-05;

- External storage shall be provided at ground and/or basement level at a rate of not less than 2 square metres per unit.

The amended development will provide a total of 116 number apartments.

Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of residential and visual amenities.

3. 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.

4. Final details of all proposed site boundary treatments and details of tree protection measures for trees at adjoining sites shall be agreed in writing with the planning authority prior to the commencement of development.

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

5. The boundary planting and areas of communal open space shown on the lodged plans 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.

6. The management and maintenance of the proposed development following its completion (save for areas that are to be taken in charge) shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads 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.

7. 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 six 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.

8. 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.

9. 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.

10 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.

11. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, kerbs and the lower ground level car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. The detailed layout of the basement car park shall be as agreed with the planning authority. 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.

12. The Mobility Management Plan submitted with the application shall be implemented by the management company for all units within the development.

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

13. 340 number bicycle parking spaces shall be provided within the site. Full details of the layout, marking demarcation and security provisions for these spaces shall

agreed in writing with Dun Laoghaire Rathdown County Council Transportation Planning prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

14. 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.

15. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

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

16. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

17. The developer is required to sign a connection agreement with Irish Water prior to any works commencing and connecting to its network. All development is to be carried out in compliance with Irish Water Standards codes and practices.

Reason: In the interest of public health.

18. Construction and demolition waste shall be managed in accordance with a final 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

19. The construction of the development shall be managed in accordance with a final 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:

- (a) Works to remove trees and structures from the site shall take place outside of bird nesting season;
- (b) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (c) Location of areas for construction site offices and staff facilities;

- (d) Details of site security fencing and hoardings. Hoardings shall include a one square metre area on each road frontage detailing site management contact details;
- (e) Details of on-site car parking facilities for site workers during the course of construction;
- (f) 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;
- (g) Measures to obviate queuing of construction traffic on the adjoining road network;
- (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (i) 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;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) 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;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (n) Noise management plan.
- (o) Invasive species management plan.
- (p) 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.

(q) A community liaison officer shall be appointed for the duration of the construction works.

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

20. Site development and building works shall be carried out only between 0800 to 1900 hours Mondays to Fridays inclusive and 0800 to 1300 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. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, drawings showing all development works to be taken in charge designed to meet the standards of the Planning Authority.

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

22. 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.

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 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.

24. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford 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.

25. The developer shall pay to the Planning Authority a financial contribution in lieu of public open space provision in accordance with the terms of the Development

Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended (as provided for in the Dun Laoghaire Rathdown Development Plan 2022-2028). 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: To provide a financial contribution in lieu of the shortfall in the provision of public open space required to serve the development as provided for in the Dun Laoghaire Rathdown Development Plan 2022-2028

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 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.

Note 1

While the Board agreed with the Inspector that the removal of a floor on Blocks C & D was warranted, it was considered that in order to retain the visual interest created by the roof profile proposed that it would be more appropriate to remove an intermediate floor from these Blocks thereby avoiding the creation of a uniform roof profile along the public realm. The Board decided therefore to remove the second floor from each of Block C and D

Note 2

The Board agreed with the Planning Authority that a reconfigured apartment mix in accordance with the requirements of Table 12.1 of the Dun Laoghaire Rathdown County Development Plan 2022-2028, consistent with Policy Objective PHP27 of same, namely that a minimum of 20% three bed units, was warranted. This mix is derived from the Housing Need Demand Assessment which forms part of the Dun Laoghaire Rathdown County Development Plan 2022-2028.

The Planning Authority suggested a condition requiring an amendment to the floorplates of the remaining buildings in order to achieve the unit mix requirements and dual aspect requirements in the County Development Plan. In respect of the reconfigured apartment mix, and the Board determined that, such a revision to the apartment mix was warranted, but the Board determined that the wording of any such condition needed to be precise.

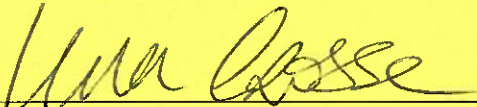
In addition, while the Inspector considered that the provision of 16% of the units as 3-beds would generally comply with the requirements of Table 12.1, the Board considered that further revisions to the configuration of units was required in order to comply with the housing mix required in Table 12.1 of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and therefore have conditioned further revisions as outlined in Condition 2 by way of the amalgamation of units with spaces proposed as internal communal areas, to address the matter of compliance with the mix required in the Housing Need Demand Assessment.

If the applicant considers that the mix can be achieved by means of an alternative configuration within the blocks, a further application for permission for same could be made.

Note 3

While the Board agreed with the Planning Authority and the Inspector that a development contribution in lieu of public open space was appropriate, it was not considered that a Section 48(2)(c) condition was an appropriate mechanism as it relates to specific exceptional costs not covered by a scheme and therefore a specific Section 48 condition has been included as per Section 12.8.3.1 of the Dun Laoghaire Rathdown Development Plan 2022-2028.

Board Member



Una Crosse

Date: 01/08/2023