

**An
Bord
Pleanála**

**Board Direction
BD-014842-23
ABP-317935-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/12/2023.

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 within an established urban area of Dublin City with a zoning objective for 'Z10 - Inner Suburban and Inner City Sustainable Mixed-Uses' in the Dublin City Development Plan 2022-2028;
- b) the policies and objectives in the Dublin City Development Plan 2022-2028;
- c) the nature, scale and design of the proposed development and the availability in the area of infrastructure;
- d) the pattern of existing and permitted development in the area;
- e) the provisions of Housing for All – A New Housing Plan for Ireland 2021;
- f) the policies and objectives set out in the National Planning Framework;

- g) the Sustainable Residential Developments in Urban Areas, Guidelines for Planning Authorities 2009;
- h) the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2022;
- i) the Urban Development and Building Heights, Guidelines for Planning Authorities 2018;
- 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 Environment, Community and Local Government in 2019;
- k) the Planning System and Flood Risk Management, Guidelines for Planning Authorities 2009;
- l) the provisions of the Climate Action Plan 2023;
- m) the policies and objectives of the Regional Spatial and Economic Strategy for the Eastern and Midlands Regional Assembly
- l) the grounds of the appeals received
- m) the submissions and observations received;
- n) the reports of the Planning Authority including its assessment and determination that the scale, height and density of the development were appropriate for the site given its zoning and accessible location, consistent with local, regional and national policy and guidelines;
- o) 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 pedestrian and traffic safety. 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 designated European Sites, taking into account the nature, scale and location of the proposed development, 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 preliminary examination for environmental impact assessment of the proposed development and concluded that it would not have the potential to have significant effects on the environment, having regard to:

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended);
- The location of the site on lands that is zoned 'Z10 - Inner Suburban and Inner City Mixed Uses' in the Dublin City Development Plan 2022-2028 with a

stated objective 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses';

- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity;
- The location of the site outside of any sensitive location specified in Article 109 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); and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.

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 the information set out in Schedule 7A of the regulations or 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, the proposed development would constitute an acceptable quantum and density of development in this zoned and serviced brownfield location, 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 scale of development, would be acceptable in terms of impacts on traffic, would provide an acceptable form of residential amenity for future occupants, and would be capable of being adequately served by wastewater and water supply networks.

The Board considered that the proposed development is compliant with the provisions of the Dublin City Development Plan 2022–2028 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 14th June 2023, 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 development shall be amended as follows:
 - (a) the 4 no. bicycle stands positioned immediately east of the proposed vehicular entrance to the car park shall be relocated appropriately so as to ensure sightlines are unobstructed.

Revised drawings showing compliance with this requirement 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 traffic safety.

3. This permission shall be for a period of 5 years from the date of this order.

Reason: In the interest of orderly development.

4. The final layout and specifications for:
 - (a) the interface between Kylemore Way and Jamestown Road
 - (b) the public realm works to the front of the scheme and west of the laneway through the scheme

shall be agreed with the Planning Authority in writing prior to commencement of development.

Reason: In the interests of permeability, sustainable transport, and community safety.

5. Prior to the first occupation of the residential units hereby approved, the childcare facility, retail unit, healthcare unit, and café/restaurant hereby approved, shall be fully-fitted out and suitable for immediate occupation and operation.

Reason: To ensure the orderly development of the site and to comply with the land-use zoning objectives of the Dublin City Development Plan 2022-2028.

6. 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.

7. Prior to the occupation of the proposed non-residential units (childcare facility, retail unit, healthcare unit, and café/restaurant) the following shall be submitted to and agreed in writing with the Planning Authority for these units:

- (a) finalised service and service infrastructure details
- (b) details of any proposed signage to be applied to the elevations of the respective buildings including details of the glazing, materials, colour, lettering and depth of the signage

Reason: In the interest of clarity and the visual amenity of the area.

8. Details of any signage or advertisement structures to be erected or displayed on the buildings or within the curtilage of the site in such a manner as to be visible from outside the building shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

9. The opening hours for all non-residential units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any operations in each respective unit.

Reason: In the interests of residential amenity.

10. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

11. A plan containing details for the management of waste 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 and non-residential 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.

12. 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. 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.

13. The construction of the development shall be managed in accordance with a final project 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 details of the 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 and details of areas for construction site offices, staff facilities, site security fencing and hoardings;
 - c) Details of on-site car parking facilities for site workers during the course of construction;
 - d) 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.
 - e) Measures to obviate queuing of construction traffic on the adjoining road network;
 - f) Details of construction phase mobility strategy, incorporating onsite mobility provisions;
 - 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, cyclists 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 measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels.
 - j) Details of appropriate mitigation measures for noise and dust, 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 watercourses;
- n) A record of daily checks that the works are being undertaken in accordance with the final project Construction and Environmental Management Plan shall be kept for inspection by the planning authority;
- o) Invasive species management plan.

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

14. Public lighting shall be provided in accordance with a scheme, which shall include lighting for the public open spaces, communal spaces and parking / servicing areas, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing and permitted public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

15. All mitigation measures set out in the submitted Ecological Impact Assessment and Bat Survey/Assessment shall be implemented in full in the carrying out and occupation of the permitted development. All biodiversity enhancement and monitoring measures shall be carried out in accordance with the Biodiversity Enhancement Plan.

Reason: In the interest of protecting the environment during the construction and operational phases of the development.

16. 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.

17. 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.

18. Prior to the occupation of the development, a finalised Mobility Management Plan shall be submitted to and agreed in writing with the planning authority. This plan shall include modal shift targets and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents of 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.

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

19. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the

residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose.

(b) 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.

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

20. A minimum of 10% of all car parking spaces should 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 or stations at a later date. Where proposals relating to the installation of electric-vehicle ducting and charging stations or points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development. The car parking spaces for sole use of the car-sharing club shall also be provided with functioning electric-vehicle charging stations or points.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

21. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping which accompanied the application submitted, unless otherwise agreed in writing with the Planning Authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

22. The boundary planting and public open spaces shall be landscaped in accordance with the landscape scheme submitted to the planning authority with the application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation.

Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

23. 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.

Reason: To protect the visual amenities of the area.

24. 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.

25. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

26. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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. (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company.

(b) Details of the legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation. The management scheme shall provide adequate measures for the future maintenance of public open spaces, roads and communal areas.

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

28. 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.

29. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

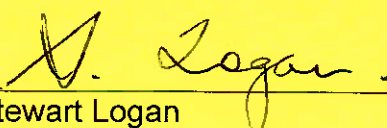
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

30. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting 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


Stewart Logan

Date: 13/12/2023