

An  
Bord  
Pleanála

**Board Direction**  
**BD-016887-24**  
**ABP-318607-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/07/2024.

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 has had regard to the following:

- (a) the nature, scale, and extent of the proposed development,
- (b) the provisions of the Project Ireland 2040 National Planning Framework,
- (c) the provisions of the Climate Action Plan 2023 and 2024,
- (d) the provisions of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024),
- (e) the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018),
- (f) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments (July 2023),
- (g) the provisions of the Design Manual for Urban Roads and Streets (2019),
- (h) the provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031,
- (i) the provisions of the Dublin City Development Plan 2022-2028 including the 'Z14 - Strategic Development and Regeneration Areas (SDRAs)' zoning for the site,
- (j) the provisions of the Park West - Cherry Orchard Local Area Plan 2019,

- (k) the documentation submitted with the planning application, such as the Environmental Impact Assessment Report and the Appropriate Assessment Screening Report,
- (l) the submissions and observations received on file,
- (m) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects on European Sites,
- (n) the availability in the area of public transport infrastructure,
- (o) the planning history in the vicinity of the site, and,
- (p) the report of the Inspector.

### **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 brownfield/greenfield site in an urban area adjacent to a railway line and the M50 motorway, the distances to the nearest European Sites, the possible pathway considerations, the submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening Report, and the Inspector's report.

In completing the screening exercise, the Board agreed with and adopted the report of the Inspector 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 an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,

- (c) the submissions received from the prescribed bodies and observers in the course of the application, and
- (d) the 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, 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 application.

### **Reasoned Conclusion on the Significant Effects**

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated where relevant, as follows:

- Population – There would be significant positive impacts on population due to the increase in housing stock within the local area.
- Air Quality and Noise and Vibration – The subject site is in relatively close proximity to existing residential properties. Construction activity could give rise to dust and noise nuisance from the subject site to nearby receptors.  
Recommended mitigation measures in this regard are well-proven, good practice measures and are capable of being successfully implemented.
- Landscape and Visual – While the proposed development is up to a maximum fifteen storeys in height it is consistent in mass, scale, and height with the design brief for the site as set out in the Park West - Cherry Orchard Local Area Plan 2019 and it is also similar to permitted development in the area. The current development site is an undeveloped greenfield/brownfield fenced off area adjacent to a motorway and a railway line and is of limited visual amenity. No adverse landscape or visual impact would result from the proposed development.



- **Traffic and Transport** – The car parking provision proposed for the proposed development is low and it would not give rise to undue additional vehicular traffic impact in the area. There is both a commuter rail service and a bus route immediately adjacent to the site which would encourage the use of public transportation and reduce the need for car trips.
- **Climate** – The development would be consistent with the broad planning and climate framework that is in place as it would sustainably develop a greenfield/brownfield urban site which is adequately served by public transport. It would contribute to compact growth and sustainable mobility objectives.
- **Biodiversity** – The development site is of limited biodiversity value and there would be no significant adverse impact on flora or fauna as a result of the proposed development.

### **Proper planning and sustainable development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the development objectives and other provisions of the Park West - Cherry Orchard Local Area Plan 2019, with the zoning objectives and other policies and objectives of the Dublin City Development Plan 2022-2028, would positively contribute to compact growth and would make efficient use of an appropriately zoned greenfield/brownfield site within the urban area of Dublin City in an area well served by public transport, would positively contribute to an increase in housing stock and commercial/retail floorspace, would be acceptable in terms of urban design and layout and building height, would be acceptable in terms of pedestrian and traffic safety, and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure the residential or visual amenities of the area or significantly increase traffic volumes in the area. The proposed development 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, except as may otherwise be required in order to comply with the following conditions. Where such conditions require further details to be prepared by or on behalf of the local authority these details shall be placed on the file and retained as part of the public record.

**Reason:** In the interest of clarity.

2. The period during which the proposed development hereby permitted may be constructed shall be seven years from the date of this Order.

**Reason:** In the interest of clarity.

3. The mitigation measures identified and contained within the Environmental Impact Assessment Report and all other plans and particulars submitted with the application shall be implemented in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interests of protecting the environment and public health.

4. Prior to the commencement of development the developer shall submit, for the written approval of the local authority:
  - (a) revised access junction layouts which reflect the provisions of the Cycle Design Manual (2023), and
  - (b) a layout plan which shows the interface of the proposed development site with the plaza area to the front/east of the train station.

**Reason:** In the interests of clarity and active transport.

5. Appropriate noise mitigation measures, including as set out in Section 18.2.3 of the Environmental Impact Assessment Report, shall be incorporated into the fabric of the buildings to comply with noise insulation requirements.

**Reason:** In the interests of clarity and residential amenity.

6. The townland and parish boundaries as identified in Chapter 9 of the Environmental Impact Assessment Report shall be retained where feasible and treated as set out on page 35 of the submitted Landscape Design Statement. A rock/plaque/information board should be provided to mark these boundaries. Full details of this shall be submitted to, and agreed in writing with, the local authority prior to commencement of development.

**Reason:** In the interests of protecting the cultural heritage of the area.

7. Full details of the specific use of the retail/commercial units shall be submitted to and agreed in writing with the local authority prior to occupation of the units.

**Reason:** In the interests of clarity and the proper planning and sustainable development of the area.

8. The development shall be constructed in accordance with the phasing plan shown on drawing number 2202-PA-010, as submitted with the application.

**Reason:** In the interest of orderly development.

9. (a) Prior to the completion of Phase 1A of the development hereby permitted,



the permitted supermarket, retail/commercial units and community, arts and cultural spaces shall be fully fitted out and suitable for immediate occupation and operation.

- (b) Prior to the completion of Phase 1B of the development hereby permitted, the permitted creche and community, arts and cultural spaces shall be fully fitted out and suitable for immediate occupation and operation.
- (c) Details of all supermarket, retail/commercial, creche, and community, arts and cultural signage shall be submitted to, and agreed in writing with, the planning authority prior to operation of any of these units.

**Reason:** In the interests of orderly development of the site and the visual amenities of the area.

- 10. (a) The fulacht fia on site shall be fully exposed and recorded and a report shall be prepared by a suitably qualified archaeologist and submitted to the local authority.
- (b) Notwithstanding subsection (a), 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:
  - (i) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (ii) provide arrangements for the recording and for the removal of any archaeological material which the local authority considers appropriate to remove.

**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.

- 11. The internal road network serving the proposed development, including turning bays, junctions with the public road, parking areas, footpaths and kerbs, homezones, raised tables, signage, shall be in accordance with the detailed

construction standards and requirements of the local authority for such works and with the relevant provisions of the Design Manual for Urban Roads and Streets (DMURS).

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

13. 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.

14. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Outdoor Lighting Report and these details shall be placed on the file and retained as part of the public record. The detail shall include measures for the protection of bats. Such lighting shall be provided in each phase prior to the making available for occupation of any residential unit in that phase.

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

15. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the local authority for such works and services.

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

16. The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann prior to commencement of development.



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

17. The site shall be landscaped in accordance with the detailed scheme of landscaping which accompanied the application submitted, unless otherwise agreed in writing with the local authority prior to commencement of development. The landscape scheme shall be implemented fully in the first planting season following completion of each phase 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. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

**Reason:** In the interests of residential and visual amenity.

18. (a) Residential car parking spaces shall be permanently allocated to residential use and shall not be sold, rented, or otherwise sub-let or leased to other parties.
- (b) A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations or 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 have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.
- (c) Prior to the occupation of the development a Parking Management Plan shall be prepared for the development which shall be placed on the file and retained as part of the public record.
- (d) Detail of cycle parking shall be prepared for the development, having regard to the submission of the National Transport Authority, and shall be submitted to, and agreed in writing with, the local authority prior to the commencement of development. The bicycle parking quantity shall be provided as per the bicycle parking standards of the Dublin City Development Plan 2022-2028 and shall comply with SPPR 4 of the

Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). Resident cycle parking spaces shall be secure, conveniently located, sheltered, and well lit. Key/fob access shall be required to resident bicycle compounds. All cycle parking design including visitor parking shall allow both wheel and frame to be locked. Electric bike charging facilities within the resident cycle parking areas shall be provided. All cycle parking shall be in situ prior to the occupation of the development.

**Reason:** To ensure that adequate car and bicycle parking facilities are available to serve the proposed development.

19. (a) 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 shall be prepared and shall be placed on the file and retained as part of the public record. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations, and designs of which shall be included in the details to be submitted.
- (c) This plan shall also include the provision of a glass bottle recycling bank, ideally within close proximity to community/retail uses.

**Reason:** In the interest of residential amenity, to ensure the provision of adequate refuse storage, and as per the development objective for the site as set out in the Park West - Cherry Orchard Local Area Plan 2019.

20. A Resource Waste Management Plan as set out in the Environmental Protection Agency's Best Practice Guidelines for Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared, including demonstration of proposals to adhere to best practice and protocols. The Resource Waste Management Plan shall include

specific proposals as to how the Resource Waste Management Plan will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. All records (including for waste and all resources) pursuant to the agreed Resource Waste Management Plan shall be made available for inspection at the site office at all times.

**Reason:** In the interest of sustainable waste management.

21. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be placed on the file and retained as part of the public record. This plan shall provide details of intended construction practice for the development, including:
- (a) location of the site and materials compound(s) including area(s) 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. Hoardings shall include a one square metre area on each frontage detailing site management contact details;
  - (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; and
  - (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 road network;
  - (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any 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;
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;
- (m) 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;
- (n) a community liaison officer shall be appointed for the duration of the construction works.

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

22. The Construction and Environmental Management Plan shall be prepared and be placed on the file and retained as part of the public record. The Construction and Environmental Management Plan shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interests of environmental protection and orderly development.

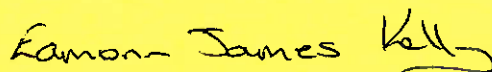
23. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 0800 to 1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the local authority.

**Reason:** In order to safeguard the residential amenities of properties in the vicinity.

24. (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 management company contract, and drawings/particulars describing the parts of the development for which the 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.

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

**Board Member**



**Date:** 01/07/2024

Eamonn James Kelly

**Note**

1. The Board noted the application and Inspector's recommendation for a 10-year permission. However, in balancing the scale of the proposed development against the need to increase housing delivery, the Board considered a 7-year grant of permission represented a more reasonable timeframe.
2. The Board noted that the Inspector's recommended Condition 4 to omit a floor from Building 7A wasn't required for the purposes of sunlight/daylight assessment or as EIAR mitigation. In noting the discrepancy between the text

and indicative massing model in the Park West - Cherry Orchard Local Area Plan regarding building height as it relates to that portion of Building 7A opposite the Cedarbrook development within Site 4: M50-Cedarbrook Avenue Site, the Board considered the development as proposed is substantially in line with the objectives of the Dublin City Development Plan and Park West – Cherry Orchard Local Area Plan 2019. The Board, therefore, was not satisfied that the recommended omission of a floor in Building 7A was warranted in the interests of proper planning and sustainable development.