



An
Bord
Pleanála

Board Direction
BD-016207-24
ABP-318921-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 02/05/2024.

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 had regard to the following:

- a) Policies and objectives set out in the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midland Region.
- b) Policies and objectives set out in the Dún Laoghaire-Rathdown County Development Plan 2022-2028, including the location of the site on lands zoned as 'NC' Neighbourhood Centre and the permitted in principle uses therein.
- c) Housing for All, A New Housing Plan for Ireland, 2021.
- d) The Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024.
- e) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2023.
- f) The Urban Development and Building Heights, Guidelines for Planning Authorities, 2018.
- g) The Design Manual for Urban Roads and Streets, 2013, updated 2019.
- h) The Childcare Facilities, Guidelines for Planning Authorities, 2001.

- i) The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009.
- j) The Greater Dublin Area Transport Strategy 2022-2042, 2022.
- k) The nature, scale, and design of the proposed development.
- l) The availability in the area of a range of social, community, and transport infrastructure.
- m) The pattern of existing and permitted development in the area.
- n) The planning history of the site and within the area.
- o) The reports of the planning authority.
- p) The submissions received by the planning authority from observers and prescribed bodies.
- q) The grounds of appeal.
- r) The responses to the grounds of appeal by the applicant and planning authority.
- s) The report and recommendation of the Planning Inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise (Stage 1) in relation to the potential effects of the proposed development on designated 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 absence of any direct hydrological connections, submissions and observations on file, the information and reports submitted as part of the application and appeal, and the Planning Inspector's report. In completing the screening exercise, the Board adopted the report of the Planning Inspector and concluded 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 and the preparation of a Natura Impact Statement would not, therefore, be required.

Environmental Impact Assessment Screening

The Board completed an Environmental Impact Assessment screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents submitted by the applicant identify and describe adequately the direct, indirect, and cumulative effects of the proposed development on the environment.

Regard has been had to:

- a) The nature and scale of the proposed development, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.
- b) The location of the site on lands that are zoned as 'NC' Neighbourhood Centre, the proposed uses, and provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC).
- c) The vacant nature of the site and its location within a neighbourhood centre which is relatively well served by public infrastructure, and the existing pattern of development in the vicinity.
- d) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.
- e) 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).
- f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- g) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction and Environmental Management Plan, Resource and Waste Management Plan, Operational Waste Management Plan,

Infrastructure Report, Ecological Statement, Noise and Vibration Impact Assessment, and Traffic and Transport Assessment.

In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

Conclusion on Proper Planning and Sustainable Development

The Board considers that, subject to compliance with the conditions set out below, the proposed development would be consistent with the 'NC' Neighbourhood Centre zoning objective and other policies and objectives of the Dun Laoghaire County Development Plan 2022-2028, constitute an acceptable mix and quantum of commercial and residential development, would result in an appropriate density of residential development, would provide acceptable levels of residential amenity for future occupants, would not seriously injure the residential or visual amenities of property in the vicinity, would not cause adverse impacts on or serious pollution to biodiversity, lands, water, air, noise or waste, would be acceptable in terms of pedestrian, cyclist and traffic safety and convenience, and would be capable of being adequately served by water supply, wastewater, and surface water networks without risk of flooding. 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 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. Permission is hereby granted for a total number of 95 apartments (32 apartments in Block A and 63 apartments in Block B) comprising 23 one-bedroom, 51 two-bedroom, and 21 three-bedroom units.

Reason: In the interest of clarity.

3. The proposed development shall be amended as follows:

- a) Block A: third floor level – full storey shall be omitted.
- b) Block B: ground floor level – Apartments B1-0.01, B1-0.02, and B2-0.01 shall be omitted and the released floorspace be repurposed as new and/ or enlarged retail units from those that are proposed.
- c) Block B: first floor level – Apartment B2-1.01 shall be omitted and the released floorspace shall be amalgamated with that of Apartment B2-1.02.
- d) Block B: second floor level – Apartment B2-2.01 shall be omitted and the released floorspace shall be amalgamated with that of Apartment B2-2.02.
- e) Block B: third floor level – full storey shall be omitted.
- f) Block B: fourth floor level – Apartment B2-4.01 shall be omitted and the released floorspace shall be amalgamated with that of Apartment B2-4.02.
- g) Block B: fifth floor level – Apartments B2-05.01 (partial), and B2-5.02 to B2-05.05 inclusive shall be omitted. A revised floorplan is hereby permitted of B2-5.01 (remaining floorspace), B1-5.04, and B1-5.05 with the same footprint/ layout as that proposed for Apartments B1-6.03 and B1-6.04.
- h) Block B: sixth floor level – full storey shall be omitted.
- i) Northeast elevations of Block A and Block B (main component 5 storeys in height with white and grey brick external finish) shall match in principal height, elevational design, roof profile, and external finishes.
- j) West elevation of Block B (projecting arm) shall indicate the omission of balconies serving the omitted Apartments B2-1.01, B2-2.01, and B2-4.01 and instead provide windows only at this location .

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

Reason: To comply with the requirements of the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024, and in the interests of visual and residential amenity.

4. The development shall be carried out in a phased manner in accordance with Phasing Plans: Dwg No. GAV-JFA-ZZ-EL-DR-A-PA220/ 2201, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of orderly development and to ensure the timely provision of amenities and infrastructure for future residents.

5. The proposed development shall be implemented as follows:

- a) Prior to the first occupation of the apartments, the residential amenity areas shall be fully fitted out and suitable for immediate operation.
- b) The residential amenity areas shall be available for the sole use of residents in the development and shall not be otherwise amalgamated, repurposed, sold or sublet.
- c) The blue and/ or green roof areas (save for the roof terrace areas) shall be accessed for maintenance purposes only and shall not be used for any amenity or recreational purpose.
- d) During the operational phase of the proposed development, the noise level arising from the development (including from the residential amenity areas, plant equipment, and/ or the roof top terraces), as measured at the nearest noise-sensitive premises shall not exceed.
 - i. An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
 - ii. An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.
 - iii. All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: In the interests of residential amenity of future occupants and of property in the vicinity

6. The use of the retail units at ground floor level of Block B shall be within the definition of 'shop' in the Planning and Development Regulations, 2001, as amended.
Reason: In the interests of clarity and to protect the amenity of the area.
7. Details of the external shopfront design, lighting, security shuttering and signage for the restaurants, retail units, and childcare facility shall be submitted to and agreed in writing with, the planning authority prior to occupation of the same.
Reason: In the interest of the amenities of the area/ visual amenity.
8. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. In addition, details of a maintenance strategy for materials within the proposal shall also be submitted for the written agreement of 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 visual amenity.
9. 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.
10. Proposals for a development name (inclusive of the residential and commercial units), 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. 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.

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development/ installation of lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development, including the commercial units, are made available for occupation.

Reason: In the interests of amenity and public safety.

12. 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.

13. 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 and/ or commercial units are made available for occupation.

Reason: in the interests of orderly development and to provide for the satisfactory future maintenance of this development.

14. Prior to commencement of development, the following shall be submitted to and agreed in writing with the planning authority:
- a) A final Mobility Management Plan.
 - b) Provision of a cycle lift to access the basement level from street level/ upper floor level(s).
 - c) Final number and identification of the basement level car parking spaces to be provided with electric vehicle (EV) charging stations/ points and details for ducting for the remaining spaces allowing for future provision.

- d) Final design, construction and operation details of the vehicular entrance to the basement level (inclusive of signage and road markings), and the basement level.
- e) On-site identification and set out of the reservation route of the '6 Year Road Objective' along the R118.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of sustainable transportation, and traffic and pedestrian safety.

15. The set down areas (inclusive of loading bays and parking spaces), footpaths, kerbs, pedestrian crossings, raised tables, and cycle lanes included in the development shall be in accordance with the detailed construction standards of the planning authority for such works, and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual issued by the National Transport 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.

16. Prior to commencement of development, proposals for cycle parking and cycle storage to serve the full scheme (residential and commercial uses, short stay (visitor) and long stay (resident/ staff) spaces, basement and street levels) shall be submitted to and agreed in writing with the planning authority. The proposals for the residential component of the development shall accord in quantity and design with the requirements of SPPR 4, Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024.

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

17. a) The areas of open space in the development shall be constructed, levelled, contoured, and landscaped (hard and soft) in accordance with the Landscape Design Strategy Report and associated landscape plans, unless otherwise agreed in writing with the planning authority.

- b) Final design, finishes, methods of construction and/ or installation of seating, equipment in play areas, footpaths, and art work shall be submitted to the planning authority for its written agreement.
- c) The landscaping work shall be undertaken in accordance with Phasing Plans: Dwg No. GAV-JFA-ZZ-EL-DR-A-PA220/ 2201 and completed before any of the apartments in Phase 2 are made available for occupation.
- d) A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of Phase 1 of the development. This schedule shall cover a period of at least three years and include details of the arrangements for its implementation.
- e) The areas of public and communal open space shall be reserved and maintained for such use by the developer until such time as these are taken in charge by the local authority and/ or management company as applicable.
Reason: To ensure the satisfactory development of the open space areas, their future maintenance, and their continued use for this purpose.

18. Prior to the commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

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

19. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with

the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

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

20. 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.

21. a) An Operational Waste Management Plan containing details for the management of waste within the development (residential and commercial units), including the provision of facilities for the storage, separation, and collection of the waste and for the ongoing operation of these facilities shall be submitted to and agreed in writing with the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- b) This plan shall provide for screened communal bin stores for the apartment blocks and each commercial operation (retail units, restaurants, and the childcare facility), the locations, and designs of which shall be as indicated in the plans and particulars lodged within the application unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

22. 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.

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

b) All development shall be carried out in compliance with Uisce Eireann codes and practices.

Reason: In the interest of public health.

24. 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.

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


Stewart Logan

Date: 03/05/2024