

An
Bord
Pleanála

Board Direction
BD-017467-24
ABP-319873-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/09/2024.

The Board decided by a majority of two to one 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 nature, scale, and extent of the proposed development and the pattern of existing development in the area,
- (b) the provisions of the Project Ireland 2040 National Planning Framework,
- (c) the provisions of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024),
- (d) the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018)
- (d) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (July 2023),
- (e) the provisions of the Dublin City Development Plan 2022-2028 including the 'Z1 – Sustainable Residential Neighbourhoods' zoning,
- (f) the documentation submitted with the planning application, such as the Appropriate Assessment Screening & Natura Impact Statement and EIA Screening Report (Stage 3), plus the first and third party grounds of appeal and the responses to same,

(g) the submissions and observations received on file including from the local authority, prescribed bodies, and third parties,

(h) 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,

(i) the planning history of the site and the vicinity of the site, and

(j) the report of the Planning Inspector.

Appropriate Assessment

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that South Dublin Bay and River Tolka Estuary SPA (site code 004024) is the only European site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Appropriate Assessment Screening & Natura Impact Statement and associated documentation submitted with the planning application and grounds of appeal, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European site, namely South Dublin Bay and River Tolka Estuary SPA, in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and,
- iii. the conservation objectives for the European site.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European site, in view of the site's conservation objectives.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the 'EIA Screening Report (Stage 3)' submitted by the applicant, which contains information set out in Schedule 7A to the Planning & Development Regulations, 2001 (as amended), identifies and describes adequately the effects of the proposed development on the environment. Having regard to:

(a) the nature and scale of the proposed development, which is significantly below the thresholds in respect of Paragraphs 10 (b)(i) and (iv) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 (as amended),

(b) the location of the site on land zoned 'Z1 – Sustainable Residential Neighbourhoods' in the Dublin City 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 existing use of the site and the pattern of existing and permitted development in the vicinity,

(d) the availability of public water and foul services to serve the proposed development,

(e) the criteria set out in Schedule 7 of the Planning & Development Regulations, 2001 (as amended) and the content of the applicant's EIA Screening Report (Stage 3), and,

(f) the measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in documents such as the Construction Environmental 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.

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 zoning and other provisions of the Dublin City Development Plan 2022-2028, would make efficient use of an appropriately zoned mixed-use brownfield site in an inner suburban location in the city, would positively contribute to an increase in housing stock, would be acceptable in terms of urban design, 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 unduly 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 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 indicated and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission authorises 104 no. apartment units.

Reason: In the interest of clarity.

3. Prior to commencement of development the developer shall submit, for the written approval of the planning authority:

- (a) Revised floor plan and elevation drawings showing consistency between the fourth floor plan for Unit A4.02 and the north west elevation of Block A in terms of windows.
- (b) Revised floor plan and elevation drawings showing consistency between the fourth floor plans for Units A4.02 and A4.03 and the north east elevation of Block A in terms of windows.
- (c) Proposals to avoid undue overlooking from the south east elevation balconies to Units A1.04, A2.04, A3.04, and A4.03 to adjoining property.

Reason: In the interest of clarity.

- 4. The mitigation measures identified and contained within the Construction Environmental Management Plan and 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 clarity, and of protecting the environment and public health.

- 5. Prior to commencement of development the developer shall submit, for the written approval of the planning authority:
 - (a) full detail of all works to the public road and public realm, which shall be carried out at the developer's expense,
 - (b) the details of the artwork, and timing of installation, within the public open space.

Response: In the interests of orderly development, visual amenity, and the proper planning and sustainable development of the area.

- 6. 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.

Reason: In the interest of visual amenity.

7. The developer shall comply with the following conservation requirements.
 - (a) The following architectural conservation details/revisions shall be submitted for the written agreement of the planning authority prior to the commencement of development hereby approved:
 - i. A schedule of renovation works to no. 211 Richmond Road including specifications for breathable materials.
 - ii. If damp penetration is to be addressed at no. 211 Richmond Road, proposed measures shall be subject to written agreement by the planning authority. Proposals should preferably be of minimal intervention, retain breathability of the primary fabric and be based on the level of damp/water ingress evidenced in the site. Suitable methods of addressing damp include ensuring that the lower ground floor space is adequately ventilated, the use of sacrificial renders internally such as lime/hemp/clay, and/or the introduction of a calcium silicate board. Interventions such as tanking or dry lining are not supported.
 - iii. Detailed drawings of historically accurate timber sash windows and glazing for the façade of no. 211 Richmond Road shall be provided to the planning authority for written agreement.
 - iv. Elevation drawings of the historic stone walls to show mark ups of conservation issues and proposed repairs. The applicant shall provide specification for mortars and pointing/capping finishes for written agreement.
 - (b) A conservation expert with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works and to ensure adequate protection of the retained and historic fabric during the works. All works shall be designed to cause minimum interference to the retained fabric and the curtilage of the protected structure.

(c) The development shall be carried out in accordance with the following:

- i. All works to no. 211 Richmond Road shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of Housing, Local Government and Heritage. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
- ii. All existing original features in the vicinity of the works shall be protected during the course of the refurbishment works.
- iii. All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.
- iv. The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structure and the historic area.

Reason: To protect the amenity, setting and curtilage of the protected structure Brooklawn, Richmond Road and the non-Protected Structure at 211 Richmond Road, and to ensure that the proposed works are carried out in accordance with best conservation practice.

8. The developer shall facilitate the preservation, recording and protection of archaeological features or materials that 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,
- (b) Employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and,
- (c) Provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

9. 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.

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.

12. (a) The landscaping scheme shown on drg. no. Dr.01-DR-2001 as submitted to the planning authority shall be carried out within the first planting season following substantial completion of external construction works.

(b) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

13. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

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

Reason: In the interest of public health.

15. 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 interests of public health.

16. (a) The on-site car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned for the residential units and shall be reserved solely for those purposes.

(b) A minimum of 50% of the on-site communal/grouped 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 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 and submitted to and agreed in writing with the local authority.

(d) Cycle parking and storage shall comply with specific planning policy requirement (SPPR) 4 of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024). All cycle parking details shall be submitted to and agreed in writing with the planning authority and shall be in situ prior to occupation of the development.

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

17. 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 prior to commencement of 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.

18. Prior to 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 reducing waste and encouraging recycling.

19. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing

with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) location of access points to the site for any construction related activity;
- (c) location of areas for construction site offices and staff facilities;
- (d) details of site security fencing and hoardings;
- (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 road network;
- (i) 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;
- (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;

Reason: In the interests of 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 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 property in the vicinity.

21. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP 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.

22. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse storage, and 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.

23. 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.

24. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

25. 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,

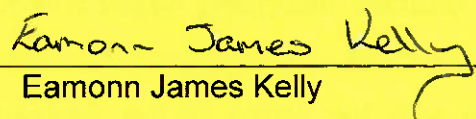
the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

26. The developer shall pay to the planning authority a financial contribution in lieu of the public open space shortfall 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


Eamonn James Kelly

Date: 13/09/2024

Note

The Board concurred with the Inspector's view that the development as originally submitted is acceptable at this location, and noted that the original application is consistent with planning requirements and guidance. The Board therefore

considered that the subsequent removal of 11 no. units from Block B was unwarranted particularly in the context of positively contributing to an increase in housing stock. The Inspector's recommended planning conditions were revised accordingly.