



An
Coimisiún
Pleanála

Direction
CD-021442-25
ACP-323393-25

The submissions on this file and the Inspector's report were considered at a meeting held on 01/12/2025.

The Commission decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Planning

Commissioner:

Eamonn James Kelly
Eamonn James Kelly

Date: 01/12/2025

DRAFT WORDING FOR ORDER

Reasons and Considerations

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

- (a) The need to plan for increased growth in accordance with the National Planning Framework, First Revision, April 2025, and the flexibility that applies to projected targets for future growth, including National Policy Objective 11;
- (b) The nature, scale and design of the proposed development, which is in accordance with the policies and objectives of the Dublin City Development Plan 2022-2028;
- (c) The pattern of existing and permitted development and the availability of adequate social and physical infrastructure in the area;

- (d) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in July 2023;
- (e) The provisions of Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage in January 2024;
- (f) The provisions of Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities, issued by the Department of the Environment, Heritage and Local Government in 2007;
- (g) The provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031;
- (h) The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), issued by the Office of Public Works and Department of Environment, Heritage and Local Government, 2009;
- (i) The Childcare Facilities Guidelines for Planning Authorities, issued by the Government of Ireland, 2001;
- (j) The Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, July 2023;
- (k) The submissions and observations received;
- (l) The reports from the Planning Authority; and
- (m) The reports of the Planning Inspector and technical note of the Senior Ecologist.

The Commission performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Development (Amendment) Act 2021, (consistent with Climate Action Plan 2024 and Climate Action Plan 2025 and the national long term climate action strategy, national adaptation framework and approved sectoral adaptation plans set out in those Plans and in

furtherance of the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State).

Appropriate Assessment Stage 1

The Commission completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the documents submitted with the planning application and appeal, the Inspector's reports, the Internal Technical Note prepared by the Ecologist, and the submissions and observations on file. In completing the screening exercise, the Commission adopted the report of the Inspector and concluded that it is not possible to exclude that the proposed development alone will give rise to significant effects on South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA, in view of the sites' Conservation Objectives, and that a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is, therefore, required.

Appropriate Assessment Stage 2

The Commission considered the Natura Impact Statement submitted by the applicant and all other relevant documentation on the file and completed an Appropriate Assessment (Stage 2) of the implications of the project on South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA, in view of the sites' Conservation Objectives. The Commission considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. The Commission concluded that the project, individually or in combination with other plans or projects, would not adversely affect the integrity of South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA, in view of the sites' Conservation Objectives and qualifying interests. This conclusion is based on the following:

- The nature and scale of the proposed development and its limited hydrological connectivity with the European Sites.

- The detailed assessment of construction and operational impacts.
- The proposed development will not affect the attainment of conservation objectives for the relevant qualifying interests of South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA.
- The effectiveness of mitigation measures proposed in the Natura Impact Statement, the Outline Construction & Environmental Management Plan, and the Ecological Impact Assessment.
- The application of planning conditions to require that all relevant mitigation and monitoring measures shall be implemented.

Environmental Impact Assessment

The Commission completed an Environmental Impact Assessment Screening of the proposed development and considered that the Environment Impact Assessment Screening Report submitted by the applicant, which contains information set out in Schedule 7A of the Planning and Development Regulations 2001, as amended, identifies and describes adequately the effects of the proposed development on the environment.

Having regard to:

- (a) the criteria set out in Schedule 7, in particular;
 - (i) the nature and limited scale of the proposed development, in an established residential area served by public infrastructure,
 - (ii) the absence of significant environmental sensitivities in the vicinity,
 - (iii) the location of the development outside of any sensitive location specified in Article 109(4)(a) of the Planning and Development Regulations 2001 (as amended),
- (b) the results of other relevant assessments of the effects on the environment submitted by the applicant, including the results of the Strategic Environmental Assessment of the Dublin City Development Plan 2022-2028 under the SEA Directive,

- (c) the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, including measures identified in the Natura Impact Statement, the Construction Phase Management Plan, Construction Phase Environmental Plan, the Resource & Waste Management Plan, the Operational Waste Management Plan, the Climate Action and Energy Statement, the Ecological Impact Assessment, the Arboriculture Assessment, the Site Specific Flood Risk Assessment, and the Engineering Services Report.

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development:

The Commission considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the Dulin City Development Plan 2022-2028, would provide an acceptable quantum of residential development at this location which would be served by an appropriate level of physical and social / community infrastructure, would provide an acceptable form of residential amenity for future occupants, would not seriously injure the visual amenities of the area or the amenities of property in the vicinity, would be acceptable in terms of urban design, height and scale of development, would be acceptable in terms of traffic safety and convenience, would not be at risk of flooding or increasing the risk of flooding to other lands, would be capable of being adequately served by wastewater, surface water, and water supply infrastructure in a manner which would not adversely impact on water quality or regime, and would not seriously detract from the ecological or archaeological value of 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 received by Dublin City Council on the 7th day

of July 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 mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

3. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors 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 Coimisiún Pleanála for determination.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

4. Details of signage, waste management and hours of operation of the non-residential units shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

This plan shall provide details of intended construction practice for the development, including:

- a) A Pre-Construction Invasive Species Management Plan and an Invasive Species Management Plan if required;
- b) Provision for mitigation measures described in the Construction Management Plan and Natura Impact Statement;
- c) A pre-construction condition survey of properties on Mullingar Terrace, if required;
- d) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- e) Location of areas for construction site offices and staff facilities;
- f) Details of site security fencing and hoardings;
- g) Details of on-site car parking facilities for site workers during the course of construction;
- h) 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;
- i) Measures to obviate queuing of construction traffic on the adjoining road network;
- j) Details of lighting during construction works;
- k) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- l) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site works;
- m) Provision of parking for existing properties at during the construction period;
- n) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- o) 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;

p) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

q) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

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

6. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays and between 0800 and 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 planning authority.

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

7. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

8. Drainage arrangements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority.

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

9. The developer shall comply with the detailed requirements of Transportation Planning Division of Dublin City Council.

Reason: To ensure a satisfactory standard of development in the interest of public safety.

10. A minimum of 20% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/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.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles

11. The boundary planting, lighting and open spaces and biodiversity enhancement plan shall be in accordance with the details 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.

12. Prior to the occupation of the residential units, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking. 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.

13. Proposals for a naming 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 signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the 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 and to ensure the use of locally appropriate place names for new residential areas.

14. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located. 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.

15. (a) No residential unit shall be occupied until the associated residential amenities, gym. Co-working hub and café are completed and ready for occupation.

(b) The opening hours and details of proposed signage (as applicable) 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.

16. The developer shall comply with the following requirements of the City Archaeologist of Dublin City Council:

a) No construction or site preparation work may be carried out on the site until all archaeological requirements of the Planning Authority are complied with.

b) The applicant shall install vibration monitors on all sections of the Phoenix Park Deerpark wall (RPS No. 6781; RMP No. DU018-00701) within the site. A survey of the

wall is to be carried out at regular intervals during all phases of works. A report providing the results of the above is to be provided to the Planning Authority.

c) Any temporary works by the main contractor to the wall during construction and from unauthorised access are to be installed per the details on the submitted drawing 200076-X-10-Z01-B1-DR-DBFL-SE-1971 and agreed with the OPW prior to the commencement of any works.

d) The project shall have an archaeological assessment (and impact assessment) of the proposed development, including all temporary and enabling works, geotechnical investigations, e.g., boreholes, engineering test pits, etc., carried out for this site as soon as possible and before any site clearance/construction work commences. The assessment shall be prepared by a suitably qualified archaeologist.

e) The archaeologist shall forward their Method Statement in advance of commencement to the Planning Authority.

f) Where archaeological material is shown to be present, a detailed Impact Statement shall be prepared by the archaeologist which will include specific information on the location, form, size and level (corrected to Ordnance Datum) of all foundation structures, ground beams, floor slabs, trenches for services, drains etc. A comprehensive mitigation strategy shall be prepared by the consultant archaeologist and included in the archaeological assessment report.

g) No subsurface work shall be undertaken in the absence of the archaeologist without his/her express consent. The archaeologist retained by the project to carry out the assessment shall consult with the Planning Authority in advance regarding the procedure to be adopted in the assessment.

h) One digital copy in pdf format containing the results of the archaeological assessment shall be forwarded on completion to the Planning Authority. The Planning Authority (in consultation with the City Archaeologist and the National Monuments Service, Dept. of Housing, Local Government and Heritage, shall determine the further archaeological resolution of the site.

i) The developer shall comply in full with any further archaeological requirement, including archaeological monitoring, and if necessary archaeological excavation and/or the preservation in situ of archaeological remains, which may negate the facilitation of all, or part of any basement.

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.

17. (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.

18. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Coimisiún 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 plan of the area.

19. (a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and

location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000 (as amended), that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing. (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing. (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

20. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. 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 sustainable waste management.

21. 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 Coimisiún Pleanála for determination.

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

22. The developer shall pay to the planning authority a financial contribution of €530,000.00 (€5000) per unit as a contribution in lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the adopted Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any indexation provisions of the Scheme at the time of payment.

Reason: It is a requirement of the Planning and Development Act, 2000, as amended, that a condition requiring contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.

23. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 Coimisiún 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 Contribution Scheme made under section 48 of the Act be applied to the permission.