



An
Coimisiún
Pleanála

Direction
CD-021632-25
ACP-323473-25

The submissions on this file and the Inspector's report were considered at a meeting held on 11/12/2025.

The Commission decided to grant permission, for the following reasons and considerations, and subject to the following conditions.

Planning

Commissioner:

Date: 30/12/2025

Tom Rabbette

DRAFT WORDING FOR ORDER

Reasons and Considerations

Having regard to residential land use zoning objective applicable to the application site as indicated in the Dun Laoghaire Rathdown County Development Plan 2022-2028, and having regard to the nature, scale and design of the proposed development and the nature of the receiving environment, that includes other apartment developments in proximity of similar scale and height, and also having regard to the orientation of the apartment block relative to neighbouring residential developments and the separation distances between the proposed development and those neighbouring developments, it is considered that, subject to compliance with the conditions hereunder, the proposed development would not adversely impact on

the residential amenities of neighbouring properties by reasons of overlooking, overbearance or overshadowing, would be acceptable in terms of car and bicycle parking proposed, would be a positive contribution to the visual amenities of the area, would provide for an appropriate standard of residential amenity for future occupants of the proposed apartments, and would increase housing supply and provide compact urban growth in compliance with Objective PHP18 of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and national and regional planning policies. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Commission noted that the applicant's preliminary roost assessment of structures and trees, and the survey of the existing dwelling, have not produced evidence of existing bat roosts on site and there is no other evidence on file of the existence of bat roosts or badger setts on the application site. The Commission also noted that the trees identified with low to moderate *potential* for bat roosts are proposed to be retained. The Commission further noted that the planning authority's Biodiversity Officer did not recommend refusal in relation to these matters but rather sought further information. The Commission also considered other factors, including that this is an existing suburban brownfield residential site that is not subject to any specific ecological designation. The Commission considered that site cannot be considered an 'area of natural heritage importance' for the purposes of Objective GIB22 of the development plan. In the circumstances the Commission considered it unreasonable to refuse permission on the basis of a low to moderate potential of bat roosts on the site. The Commission was satisfied that bat roosts, if they exist on site, can be appropriately protected by way of condition and the Commission noted that the species was also protected under other separate legal codes and a grant of permission does not override such protection.

The Commission noted the Inspector's consideration that the proposed density, at 140 uph, would be a material contravention of the county development plan, notwithstanding the Inspector went on to recommend that the density be considered acceptable having regard to the provisions of 'Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities, 2024'. The

Commission considered that the proposed density is supported by the specific wording of 'Policy Objective PHP18: Residential Density' of the development plan, the Commission further noted the supporting/explanatory text within the development plan in relation to that Policy Objective PHP18 where it states that at certain locations higher densities at a minimum of 50 uph will be encouraged. The Commission considered that this is one such location and, as the density exceeds the stated *minimum* requirement of 50 uph, it does not contravene that provision of the development plan i.e. it is a minimum requirement, not a maximum requirement. The Commission therefore did not consider that a contravention of the development plan in relation to density arose in this instance. In any event, the Commission agreed with the Inspector that the proposed density did comply with, and is supported by, the 'Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities, 2024'. However, given the target density of 55 uph for this location as indicated in Table 5.4 of the Ballyogan and Environs Local Area Plan (LAP), the Commission, in applying the precautionary principle, agreed with the Inspector that the proposed density may be considered a material contravention of the LAP in this regard. The Commission also agreed with the Inspector and decided to grant permission for the density as proposed pursuant to s.37(2)(a) of the Planning and Development Act 2000, as amended, and this material contravention is grounded in the density being in compliance with the 'Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities, 2024', the Commission agreed with the Inspector that the site falls within the 'City-Urban Neighbourhood' category and a density range of 50-250 uph applies as per the said guidelines.

The Commission noted that the Inspector considered that the separation distances between some of the windows in the proposed development and the existing balconies at the adjacent Beech House, at c.16.4 m, would be a material contravention of section 12.3.5.2 of the development plan. The Commission notes that section 12.3.5.2 requires a minimum clearance distance of c. 22 m between opposing windows. The Commission is satisfied that this requirement is adhered to as the c.16.4 m separation distance is between the side opening of an existing balcony, and not an existing window to the living room off the balcony. The Commission notes that the orientation of the windows to the living rooms (and the

main orientation of the balconies) in the adjacent property are not towards the proposed development but away from it in a south-east direction. There are no proposed opposing (transparent) windows within 22 m of adjacent properties. The Commission therefore satisfied that there is no contravention of section 12.3.5.2 of the development plan.

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. Prior to the commencement of development, the applicant shall carry out a bat and badger survey of the application site, results of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Should any bat roosts or badger setts be identified on site the applicant shall indicate mitigation proposals in relation to the protection of same which may include preservation on site or relocation (subject to appropriate derogation licence subject of separate legislative process), the mitigation proposals will be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of ecological heritage protection.

3. Prior to the commencement of development, the applicant shall submit to, and agree in writing with, the planning authority the following amendments:

- a. The timber privacy fins, where proposed to the side of apartment balconies, shall be replaced with obscure glass privacy screens of minimum height 1.8 m.
- b. The sides of the terrace off bedroom nos. 01 and 02 in Unit 4.01 shall be fitted with obscure glass privacy screens of minimum height 1.8 m.
- c. The north-east side of the third floor communal roof terrace shall be fitted with an obscure glass privacy screen of minimum height 1.8 m.

Reason: To further improve mitigation measures to prevent overlooking of adjacent residential properties.

4. Prior to the commencement of development the applicant shall submit to, and agree in writing with, the planning authority, detailed proposals for the protection, during the construction phase, of trees identified for retention in the submitted Arboricultural Report.

Reason: In the interests of visual amenity, residential amenity and the protection of local ecology.

5. The applicant shall submit to, and agree in writing with, the planning authority an amended site layout plan and landscape plan that omits the trees and ornamental planting in the reservation for the Kilternan Link Road along the north-west site frontage.

Reason: To protect the reservation area for the proposed Kilternan Link Road.

6. Prior to the commencement of development the applicant shall submit to, and agree in writing with, the planning authority a plan, including timelines, for the removal of invasive species on the application site.

Reason: In the interests of eradicating and mitigating against the spread of invasive species on the application site.

7. Details of the materials, colours and textures of all the external finishes to the proposed apartment block shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

8. 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.

9. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).

Reason: In the interest of amenity and of traffic and pedestrian safety.

10. All the communal parking areas serving the development shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

11. The attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health.

12. Prior to the commencement of development the developer shall enter into a Connection Agreements with Uisce Éireann (Irish Water) to provide for a service connections to the public water supply and wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

13. Proposals for the apartment 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 estate and street signs, and apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

14. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

15. 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 for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

16. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare 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) 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 the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the 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 proper planning and sustainable development.

17. 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 interest of environmental protection and residential amenities.

18. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of traffic safety and convenience.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. 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 satisfactory reinstatement of the site.

20. The developer shall pay to the planning authority a financial contribution as a contribution lieu of the public open space requirement, in respect of public open space benefitting the 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 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. The contribution to be paid 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 considered reasonable that the developer should pay a financial contribution in lieu of public open space required to serve the development, such payment is provided for in the Development Contribution Scheme made under Section 48 of the Act of 2000 and is provided for in the Dun Laoghaire Rathdown County Development Plan 2022-2028.

21. 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 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 Development Contribution Scheme made under section 48 of the Act be applied to the permission.

22. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.