



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 18th day of November 2019 by Claregrove Developments Limited care of John Spain Associates, 39 Fitzwilliam Place, Dublin.

Proposed Development

A planning permission for a strategic housing development at Newtown, Malahide Road (R107), Dublin 17. The application site contains a petrol filling station and vacant commercial buildings, including a former motor showroom (Crossan Motors) with offices, a tyre centre and a commercial workshop and office. The site is bound by a local residential access road and Clare Village residential apartments to the south east, Grove Lane to the south west, a tyre centre (First Stop) to the north east and Malahide Road (R107) to the west / north west.

The proposed development comprises of the following:

- Demolition of all existing structures on the site;
- Provision of 331 number Build-to-Rent residential units:
 - 82 number one-bed units,
 - 13 number two-bed, three person units,
 - 226 number two-bed, four person units,
 - 8 number two-bed duplex units and
 - 2 number three-bed duplex units,

in two number blocks (Block A, containing 93 number units, to the south west and Block B, containing 238 number units, to the north east), ranging in height from eight to ten number storeys (including ground and mezzanine floor levels);

- Block A contains a double height ground floor level containing two number commercial units (for Class 1 - Shop / Class 2 - Office / Restaurant / Café use), a reception area, and an internal / undercroft ground floor car park accessed off Grove Lane incorporating bicycle parking and refuse storage areas. Two number duplex units over two levels are located to the rear of Block A;
- Block B contains a double height ground floor level containing ancillary communal support facilities and amenities, which includes a reception area, a shared workspace, a gym and a laundry, a commercial unit (for Class 1 - Shop / Class 2 - Office / Restaurant / Café use), and a childcare facility, with associated outdoor play area. Eight number duplex units are located to the rear of Block B over two levels. Block B includes an internal / undercroft car park area over four levels (including partial basement) to be accessed from the Malahide Road and incorporating car, motorcycle, bicycle parking and refuse storage areas;
- Block B contains an internal communal amenity space at seventh floor level, lettable storage space from first to eighth floor level and office space from first to sixth floor level and eighth floor level;
- The proposal contains a total of 201 number car parking spaces, 640 number cycle spaces and 11 number motorcycle spaces;
- Public realm improvements are proposed along the Malahide Road and Grove Lane frontage and a central area of public open space is proposed between Block A and B. Outdoor communal open space areas are proposed at podium level and roof level;
- The proposed development will provide balconies / terraces on all elevations, boundary treatments and landscaping, two number Electricity Supply Board sub-stations, drainage and service works, the closing off of existing vehicular entrances, the creation of a vehicular access and egress point from the Malahide Road (R107) and from Grove Lane, an enhanced pedestrian / cycle

crossing on the Malahide Road and other associated works, and all ancillary site development works necessary to facilitate the development.

Decision

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

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

- (a) the site's location close to Dublin City Centre, within an emerging built-up area, including the bus corridor along the Malahide Road;
- (b) the provisions of the Dublin City Development Plan 2016-2022, including the zoning objective Z14, which aims to 'seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and "Z6" would be the predominant uses';
- (c) the policies set out in the Dublin City Development Plan 2016-2022, including the designation of a key district centre at Clarehall;
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (e) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;

- (f) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (g) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018;
- (h) the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (i) the Planning System and Flood Risk Management guidelines (including the associated Technical Appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (j) the nature, scale and design of the proposed development;
- (k) the availability in the area of a wide range of social, community and transport infrastructure;
- (l) the pattern of existing and permitted development in the area;
- (m) the planning history within the area;
- (n) the submissions and observations received, and
- (o) the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Screening Report for Appropriate Assessment submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development on an urban site served by public infrastructure,
- (b) the absence of any significant environmental sensitivities in the area,
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conditions

1. The proposed 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 proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:
 - (i) Details of privacy screens and buffer zones, which shall be provided between balconies at ground floor levels and above;
 - (ii) A high-level window to be provided to the gable elevation of the ground floor living room of duplex unit number 03 and duplex unit number 10, in order to improve access to daylight;
 - (iii) All apartments shall be provided with a balcony as per the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018;
 - (iv) Details of changing/toilet facilities to be provided in close proximity to the ancillary residential facilities/services;
 - (v) Details of the gating of the landscaped circulation passageway to the rear of Blocks A and B, showing this area solely accessible to residents;
 - (vi) Details of the appropriate landscaping of the podium vents located within

the communal open space, with the periscope system of venting maximised;

(vii) A taking in charge drawing clearly demarcating any such areas to be taken in charge, and

(viii) An invasive species management plan.

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability.

3. The development hereby permitted shall be for Build-to-Rent units and associated facilities which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (March 2018) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

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

4. Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the Management Company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

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

5. Prior to the commencement of development, the developer shall submit to and agreed in writing with the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be let or sold separately for that period.

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

6. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit, for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

7. Water supply and 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 to ensure a satisfactory standard of development.

8. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

9. The period during which the development hereby permitted may be carried out shall be five years from the date of this Order.

Reason: In the interests of proper planning and sustainable development

10. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements. In particular:
 - (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense;
 - (b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;
 - (c) Pedestrian crossing facilities shall be provided at all junctions;
 - (d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works;
 - (e) 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;
 - (f) A detailed mobility management strategy shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The strategy shall address the mobility requirements of future residents and shall promote the use of public transport, cycling and walking, as well as identifying car club spaces outside of the development, in the vicinity of the site. This strategy shall be prepared

and implemented by the management company for all units within the development. This strategy shall also incorporate a Car Parking Management Strategy for overall development, details of which to be agreed with the planning authority, prior to the commencement of development. It shall address the continued management and assignment of spaces to users and residents over time.

Reason: In the interests of traffic, cyclist and pedestrian safety, sustainable transport and to protect residential amenity.

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

12. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: In the interests of residential and visual amenity.

13. Pedestrian access to the public open space areas, including the central open space area shall be permanent, open 24 hours a day, with no gates, security barrier or security hut at the entrance to the development or within the development in a manner which would prevent pedestrian access between the areas identified above.

Reason: In the interest of residential amenity and to secure the integrity of the proposed development including the public park.

14. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The extent of render finishes shall be minimised and details relating to an alternative finish shall be agreed in writing with the planning authority, prior to the commencement of development.

Reason: In the interest of visual amenity.

15. 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 amenity of property in the vicinity and the visual amenity of the area.

16. Site development and building works shall be carried only out between 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 amenity of property in the vicinity.

17. Prior to commencement of development, proposals for an apartment numbering scheme and associated signage shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development.

18. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenity of the area.

19. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:

- (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 carry out site testing and 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 (in situ or by record) of any remains that may exist within the site.

20. 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 social and affordable housing in accordance with the requirements of section 96 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 (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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.

21. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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: To provide for the appropriate management of waste, and in particular recyclable materials, in the interest of protecting the environment.

22. A site-specific detailed Construction and Environmental Management Plan shall be submitted, for the written agreement of the planning authority at least five weeks in advance of site clearance and site works commencing.

Reason: To protect the environment during the construction phase and also to avoid impacts on water quality, fisheries, sustainable drainage and flooding.

23. Prior to the commencement of any works on site, the applicant shall ascertain and comply with all requirements of the Irish Aviation Authority in relation to this development.

Reason: In the interest of safety.

24. Details of all external signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In this regard, signage shall be restricted to individual lettering affixed directly to the building, without backlighting or internal illumination.

Reason: In the interest of the amenities of the area / visual amenity.

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 planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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 the Board for determination.

Reason: To ensure the satisfactory completion of the development.

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.

Paul Hyde

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2020