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## **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 24<sup>th</sup> day of February 2020, and to the oral hearing on the 2<sup>nd</sup> day of September 2020, by Roseberry Investments Limited care of John Spain Associates, 39 Fitzwilliam Place, Dublin 2.

### **Proposed Development**

A planning permission for a strategic housing development on two parcels of land adjacent to the Bonnington Hotel, Swords Road, Whitehall, Dublin 9, D09 C7F8, with the proposed build to rent apartment site (circa 0.6 hectares) bounded generally by the Bonnington Hotel and Highfield Hospital to the west, Highfield Park to the north and Grace Park Manor and its access road to the east and south respectively, and the site for road upgrade works (circa 0.05 hectares) located on the access road adjacent to the 'Seven Oaks', all on an overall site of circa 0.65 hectares.

The development will consist of the removal of an existing surface car park and the construction of a 'Build to Rent' residential development comprising 124 number apartments as follows:

- A) 124 number apartments (arranged as two chevron shaped blocks (five to six number storeys)) comprising 48 number one-bedroom units, and 76 number two-bedroom units, each with private amenity space (balcony or terrace). Communal residential facilities in the form of a management office, post room, children's room, games room, coffee dock, reading/media room, group/yoga room, DIY bicycle repair room

and garden room are located on the lower ground floor, of the southern block, extending to circa 268 square metres

- B) Additional external communal amenity space is located adjacent to the building's perimeter, providing a range of seating, a play area at the eastern elevation, bicycle parking, hard and soft landscaping and informal recreation, extending to circa 2,628 square metres along with a single storey refuse store (circa 38 square metres).
- C) The northern block includes an under-croft car park accessed via a ramp adjacent to the site entrance and provides 54 number car-parking spaces including four number car club spaces and three number disabled spaces. 150 number bicycle spaces are provided at ground level, (with 80 number spaces within a single storey bicycle store (circa 55 square metres)), at the site's western perimeter.
- D) Vehicular access is via the existing access road and car park located east of Swords Road (at the western perimeter) with an additional shared pedestrian and bicycle entrance (and fire tender access) provided at the south west corner, with access improvements including a pedestrian crossing.
- E) Reconfiguration of the junction at Seven Oaks is included in the application.
- F) Plant room, Electricity Supply Board sub-station are included at lower ground floor level at the western elevation where the two buildings adjoin, with two areas of enclosed plant included at roof level with a sedum roof provided.
- G) All associated site development and landscape works.

## **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 on lands with a zoning objective for residential development;
- (b) the policies and objectives in the Dublin City Development Plan 2016 to 2022;
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness;
- (d) the Guidelines for Planning Authorities on Sustainable Residential Development 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;
- (e) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018 prepared by the Department of Housing, Planning and Local Government in March 2018;
- (f) the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (g) 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;
- (h) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (i) the nature, scale and design of the proposed development
- (j) the availability in the area of a wide range of educational, social, community and transport infrastructure;
- (k) the pattern of existing and permitted development in the area;
- (l) the report of the Chief Executive of Dublin City Council;
- (m) the submissions and observations received, including the submissions made to the oral hearing on the 2<sup>nd</sup> day of September 2020, and
- (n) the report of the Inspector.

## **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on the South Dublin Bay and River Tolka Estuary Special Protection Area (site code: 004024), the South Dublin Bay Special Area of Conservation (site code: 000210), the North Dublin Bay Special Area of Conservation (site code: 000206), the North Bull Island Special Protection Area (site code: 004006) and the Poulaphouca Reservoir Special Protection Area (site code: 004063), taking into account the nature, scale and location of the proposed development, the information submitted with the application, including the Screening Report for Appropriate Assessment, the Inspector's report and the submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that the proposed development would not be likely to have a significant effect on the above European sites or on any other European site in view of the sites' conservation objectives, either individually or in combination with any other plan or project, and that a Stage 2 Appropriate Assessment is not 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 developer, 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, and
- (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.

### **Conclusion on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable density of development in this accessible suburban location, would achieve an acceptable standard of urban design, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of height and quantum of development, would not present a flood risk or hazard, 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.

In not agreeing with the Inspector's recommendation to increase the distance between the northern elevation of the apartment block and the site boundary by proposing amendments to 10 of the apartments, the Board had regard to the dual aspect layout and design of the proposed residential units within the proposed development and that of the residential units within the permitted block on the neighbouring site to the north east, and considered this increase in distance would not be necessary, and that the development as proposed would not seriously injure the residential or visual amenities of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Dublin City Development Plan 2016-2022 in relation to building height. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the City Development Plan would be justified for the following reasons and considerations:

- (a) In relation to section 37(2)(b) (i) of the Planning and Development Act 2000, as amended, the proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing

development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016.

- (b) In relation to section 37(2)(b) (iii) of the Planning and Development Act 2000, as amended, an assessment of the proposed development was carried out to determine that the proposed development conforms with the development management criteria set out in section 3.2 of the Building Height Guidelines. Permission for the development should be granted having regard to guidelines under section 28 of the Act, specifically Specific Planning Policy Requirement 3 of the Building Height Guidelines, which states that where a development complies with the Development Management Criteria in section 3.2, it may be approved, even where specific objectives such as Section 16.7 of the Dublin City Development Plan 2016-2022 may indicate otherwise and diverge with national policy set out in Project Ireland 2040 National Planning Framework (in particular objectives 13 and 35).

## Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, including further plans and particulars presented to An Bord Pleanála at the oral hearing on the 2<sup>nd</sup> day of September 2020 and received by An Bord Pleanála on that day, 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 stipulated by conditions hereunder, 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. The development hereby permitted shall be for build to rent units 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 interest of the proper planning and sustainable development of the area.

3. The northern portion of the balconies associated with apartment units 32, 56, 80, 104 and 124, shall be fitted with appropriately designed privacy screens. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenity

4. Details and samples of the materials, colours and textures of all the external finishes to the proposed development including pavement finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

5. Prior to commencement of development, a Construction Method Statement in relation to the Dublin Tunnel shall be submitted for the written agreement of the planning authority. The method statement shall contain a risk assessment of the works associated with the development for the Dublin Tunnel, and contain monitoring and mitigation measures for those risks.

**Reason:** To protect existing public transport infrastructure in the area.

6. Proposals for a development name, and for residential unit /commercial unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed name shall be based on local historical or topographical features, or other alternative acceptable to the planning authority, and shall be in both Irish and English. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

7. 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 interests of orderly development and the visual amenities of the area.



8. Recognition of the historical and cultural significance of this site shall take the form of a suitably designed, worded and located memorial with reference to the site's former use as part of the burial ground associated with the former St. Mary's Home and Magdalene Laundry, the details of which shall be submitted to the planning authority for written agreement prior to the commencement of development.

**Reason:** In order to conserve the historical and cultural heritage of the site.

9. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit, to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

10. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interests of residential and visual amenity.

11. 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.

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

13. 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.

14. Site development and building works shall be carried out only between 0700 to 1900 hours Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

15. 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, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

16. 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 interests of public safety and residential amenity.

17. Prior to the occupation of the development, a Mobility Management Strategy (including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns) 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 and car-pooling to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The interim or temporary strategy, where applicable, should reflect the requirements of DMURS Interim Advice Note – Covid Pandemic Response (May 2020). 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.

18. A minimum of 10% of all car parking spaces shall be provided with electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking 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, the development shall submit 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.

19. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The spaces shall not be utilized for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units

20. 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 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 d

**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.

21. 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.

22. Prior to the commencement of development, the developer shall submit, for the written consent of 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 sold separately for that period.

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

23. Prior to expiration of the 15-year period referred to in the covenant, the owner 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.

24. 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 Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

25. 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.

