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## **Planning and Development Acts 2000 to 2020**

### **Planning Authority: South Dublin County 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 4<sup>th</sup> day of September 2020 by Cape Wrath Hotel ULC care of Tom Phillips and Associates of Number 80 Harcourt Street, Dublin 2.

#### **Proposed Development comprises of the following:**

224 number apartment units comprising:

- 82 number one-bedroom units,
- 121 number two-bedroom units
- 21 number three-bedroom units

arranged in four number blocks (Blocks A to D) and all associated public open spaces, communal amenity spaces and private amenity spaces comprising terraces or balconies. The proposed blocks are arranged over two number single level basements (accessed via two number vehicular ramps to east of the site) and comprise five to six storey blocks with an eight-storey element as part of Block A.

Vehicular access to serve the proposed development will be provided via a new access at Garters Lane and will also provide access to lands to the east (development permitted under An Bord Pleanála Reference ABP-305563-19).

Permission is also sought for 191 number car parking spaces (180 number at basement level and 11 number at surface level); 470 number bicycle parking spaces (290 number at basement level and 180 number at surface level); one number Electricity Supply Board Substation; one number cycle store, hard and soft landscaping, pedestrian and cycle links, boundary treatments, public lighting, bin storage areas at basement, surface water drainage infrastructure and attenuation tanks, and all associated site development and infrastructure works all located at this site of circa 1.18 hectare at Garters Lane, Saggart, Co. Dublin.

## **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 policies and objectives as set out in the South Dublin County Council Development Plan 2016-2022;
- (b) The policies and objectives as set out in the Fortunestown Local Area Plan 2012 (as extended);
- (c) The nature, scale and design of the proposed development;
- (d) The availability in the area of a wide range of educational, social, community and transport infrastructure,

- (e) The pattern of existing and permitted development in the area
- (f) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (g) 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;
- (h) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in March 2018;
- (i) The Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (j) The submissions and observations received;
- (k) The Chief Executives Report of the planning authority;
- (l) The report and recommendation of the Inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment screening and environmental impact assessment screening.
- (m) Section 37(2)(b) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan;

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. 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, and 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, individually or in combination with other plans or projects, 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 (and submission of a Natura Impact Statement) 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 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, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended;
- (b) the location of the site on lands zoned to protect and provide for residential communities in accordance with approved area plans in the South Dublin County Development Plan 2016-2022 and the results of the Strategic Environmental Assessment of the plan;
- (c) the location of the site on lands identified within Framework 5 - Saggart-Cooldown Commons Neighbourhood in the Fortunestown Local Area Plan 2012 (as extended);
- (d) the existing use on the site and pattern of development in the surrounding area;
- (e) the planning history relating to the site;

- (f) the availability of mains water and wastewater services to serve the proposed development;
- (g) the location of the development outside of any sensitive location specified in article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as amended;
- (h) the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government 2003;
- (i) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended;
- (j) the features and measures proposed by the developer envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction and Demolition Waste Management Plan (CDWMP).

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 and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

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

It is considered that subject to compliance with the conditions set out below the proposed development would constitute an acceptable quantum and density of development in this accessible urban 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, 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.

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 Fortunestown Local Area Plan in relation to building height, residential density and dwelling unit mix and floor area standards. The Board considers that, having regard to the provisions of section 37(2)(b)(i)(ii) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Local Area Plan and City Development Plan would be justified for the following reasons and considerations:

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; its location along an identified strategic corridor in the Dublin Metropolitan Area Strategic Plan part of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031 and its potential to contribute to the achievement of the Government's policy to increase the delivery of housing from its current under supply as set out in the document Rebuilding Ireland Action Plan for Housing and Homelessness 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.

In relation to section 37(2)(b)(ii) of the Planning and Development Act 2000, as amended:

The conflicting objectives between the South Dublin County Development Plan 2016-2022 and the Fortunestown Local Area Plan 2012 (as extended) in relation to building height and density objectives.

In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended:

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the Project Ireland 2040 National Planning Framework (in particular objectives 27, 33 and 35), the 'Dublin Metropolitan Area Strategic Plan' (in particular the provisions relating to 'Saggart'), the 'Urban Development and Building Height Guidelines for Planning Authorities' issued in 2018 (in particular section 3.2, Specific Planning Policy Requirement 3 and Specific Planning Policy Requirement 4), 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities', issued in 2018 (in particular section 2.16 - 2.22 and Specific Planning Policy Requirement 1, 2 and 3) and the 'Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual' issued in 2009 (in particular section 5.8).

## 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 development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed apartments or buildings shall be as submitted with the application, unless otherwise 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 Bord Pleanála for determination.

**Reason:** In the interest of visual amenity.

3. 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 amenities of property in the vicinity and the visual amenities of the area.



4. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development or installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

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

5. 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. All existing over ground cables shall be relocated underground as part of the site development works.

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

6. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

7. The following requirements in terms of traffic, transportation and mobility shall be incorporated and where required, revised plans and particulars and reports showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:
- (a) The roads and traffic arrangements serving the site (including footpath connections and 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) Cycle tracks or paths within the development shall be in accordance with the guidance provided in the National Cycle Manual;
  - (c) The materials used in any roads, footpaths or set down areas provided by the developer shall comply with the detailed standards of the planning authority for such road works;
  - (d) The developer shall carry out a Stage 2 and Stage 3 Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit), which shall be submitted to the planning authority for its written agreement. The developer shall carry out all agreed recommendations contained in the audits, at the developer's expense.

**Reason:** In the interests of traffic, cyclist and pedestrian safety.

8. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Clearly identified car parking space shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, unless the subject of a separate grant of planning permission.

(b) Prior to the occupation of the development, a Parking Management Plan shall be prepared by the developer and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated for use and how the car park shall be continually managed.

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

9. A minimum of 470 number bicycle parking spaces shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

10. A minimum of 10% of all communal car parking spaces should be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points 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. Prior to the opening/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 carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. Details may include the provision of centralised facilities within the commercial element of 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 and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.

12. The construction of the proposed development shall comply with Transport Infrastructure Ireland's Code of Engineering Practice for works, on, near, or adjacent the Luas Light Rail system.

**Reason:** In the interest of public safety and to prevent obstruction or interference with the operation of the LUAS system.

13. 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 surface water management.

14. All foul sewage and soiled water shall be discharged to the public foul sewer; only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

**Reason:** In the interest of public health.

15. Prior to commencement of development, the developer shall enter into water and or waste water connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

16. 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 interest of residential and visual amenity.

17. Clearance of vegetation from the development site shall only be carried out in the period September to February inclusive (i.e. outside the main bird breeding season).

**Reason:** To protect from destruction the nests, eggs and nestlings of protected species.

18. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse and bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and plans and particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

19. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

20. 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.

21. Site development and building works shall be carried out only between 0700 to 1900 hours Mondays to Fridays inclusive, between 0700 to 1400 hours 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.

22. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

23. Prior to the commencement of any works on site the applicant, owner or developer shall lodge with the planning authority for their written agreement proposals for the erection and operation of cranes proposed on site which shall incorporate the requirements of the operators of Casement Aerodrome.

**Reason:** In the interest of public safety.

24. (a) The developer shall employ a qualified Archaeologist, licensed to carry out Archaeological Monitoring of all sub-surface works carried out within the proposed development site. This will include the archaeological monitoring of the removal of topsoil, the excavation of trenches for foundations, services, access roadway, etc. associated with the proposed development.

- (b) The archaeologist shall prepare and submit a report, describing the result of the Archaeological Monitoring, to the planning authority and the Development Application Unit of the Department of Environment, Heritage and Local Government within six weeks following completion of Archaeological Monitoring.

**Reason:** To facilitate the recording and protection of any items of archaeological significance that the site may possess.

25. 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.



26. 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 Bord Pleanála for determination.

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

