

An
Bord
Pleanála

Board Order

ABP-308353-20

Planning and Development Acts 2000 to 2020

Planning Authority: Dún Laoghaire-Rathdown County Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, in accordance with plans and particulars, lodged with An Bord Pleanála on the 7th day of October 2020 by Orchid Residential Limited care of , John Spain Associates of 39 Fitzwilliam Place, Dublin 2.

Proposed Development comprises of the following:

The development will consist of demolition of the existing building (circa 960 square metres) and hard surface parking area on site and construction of a purpose-built student accommodation development (including use as tourist or visitor accommodation outside the academic term) comprising;

- (a) 239 number student bedspaces (including 10 number studios), all within a part four number storey, part six number storey 'U'-Shaped building (total gross floor area 6,620 square metres);
- (b) The building is four storeys along the southern boundary (with roof terraces at fourth floor level) and part five and six storeys along Goatstown Road (with setbacks) and boundary to the north (with roof terrace at fifth floor level fronting onto Goatstown Road);

- (c) Amenity space equating to circa 2,061 square metres is provided across the site consisting of circa 1,554 square metres of external amenity in the form of a central courtyard at ground level and roof terraces at fourth and fifth floor levels;
- (d) Internal amenity space equating to circa 507 square metres is provided in the form of two number ground floor lounge and study areas, kitchen and tearoom, laundry, and concierge and office space;
- (e) Provision of 188 number bicycle parking spaces distributed at two number locations within the central courtyard (stacked parking with glass roof cover) and adjacent to the front boundary (north);
- (f) Provision for six number carparking spaces comprising two number disabled parking spaces and four number set down parking spaces adjacent to the front entrance to the site;
- (g) Vehicular access to the site is via Goatstown Road from two number entrance points [reduction from three number entrances currently];
- (h) Ancillary single storey Electricity Supply Board substation and switch room and refuse store are provided at ground level;
- (i) Provision of surface water and underground attenuation and all ancillary site development works including site wide landscaping works, planting and boundary treatments (including removal of existing planting on Goatstown Road) as well as provision of footpaths, lighting and cycle paths all located at this site of approximately 0.39 hectares comprising the car sales premises currently known as Vector Motors (formerly known as Victor Motors), Goatstown Road, Dublin 14.

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 location of the site and the zoning of the site in the Dún Laoghaire-Rathdown County Development Plan 2016-2022;
- (b) The policies and objectives in the Goatstown Local Area Plan 2012 as extended to 2022 and the Dún Laoghaire-Rathdown County Development Plan 2016-2022;
- (c) The provisions of the Project Ireland 2040 National Planning Framework;
- (d) The provisions for the National Student Accommodation Strategy issued by the Department of Education in July 2017;
- (e) The provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the associated Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (f) The provisions of 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 2019, as amended;

- (g) The provisions of the Urban Development and Building Height Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (h) The nature, scale and design of the proposed development and the planning history relating to the site;
- (i) The proximity of the site to a third level institutions, a wide range of social infrastructure and to public transport services;
- (j) The pattern of existing and permitted development in the area;
- (k) The submissions received by An Bord Pleanála in relation to this application;
- (l) The report of the Chief Executive of Dún Laoghaire-Rathdown County Council;
- (m) The report of the planning Inspector.

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 lack of direct connections with regard to the source-pathway-receptor model, 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 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.

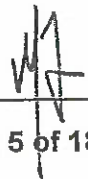
Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the EIA 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 therefore, required in this case.



Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below that 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 and would be acceptable in terms of pedestrian safety. 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 Board noted the concerns of the Inspector with regard to the integration of the proposed development into the context on Goatstown Road and the surrounding streetscape, by way of transition in height, design, scale, bulk, building line and extent of vertical and horizontal building line, and that she considered that the proposed development would not find the appropriate balance between increased density and existing residential amenities required under policies RES 3, RES 4 and Section 4.8 of Appendix 9: Building Height Strategy of the of the Dún Laoghaire- Rathdown County Development Plan 2016-2022 and Section 3.2 of the Urban Development and Building Height Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018 to ensure that the highest standards of urban design, architectural quality and place making outcomes are also achieved at the scale of the relevant to site context.

However, having examined the proposed development against the criteria as set out in Section 4.8 of Appendix 9: Building Height Strategy of the of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and Section 3.2 of the Urban Development and Building Height Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018 and in particular in relation to Development Management Criteria at the scale of district, neighbourhood and street, the Board had regard to the location of the proposed development along a convex curve on the Goatstown Road, the rising ground level along the frontage from the north towards the south, the form and scale of the existing two storey neighbourhood centre to the south, and to the form and scale of the existing three to five storey developments to the north and east of

the development site. It is considered that the vertical emphasis of the proposed six storey element to the north end of the proposed development facing onto Goatstown Road and its position relative to the existing building line to the north, would provide a bookend to the higher density development of Trimbleston, that the form and design of the five and four storey elements to the south of the proposed development facing onto the Goatstown Road, the higher ground level at the neighbourhood centre, and the consequent differential between the parapet height of the proposed development and the ridge height of the existing neighbourhood centre, provides an acceptable transition in height from an effective three storeys to two storeys.

Furthermore, the horizontal emphasis of the design which is relieved by the angled and cantilevered section over the entrance area, is acceptable given the horizontal form of the adjacent two storey neighbourhood centre building. The Board is satisfied that the proposed development on this infill site would, by reason of its design, form and layout, provide an attractive transition from the character of the existing low density suburban development to the existing higher density developments to the north and east.

The Board further considered that the urban space created by the proposed development which is set back from the road and overlooked by social areas of the proposed development presents an active frontage, which will contribute in a positive manner to the legibility of the area as a neighbourhood centre.

The Board is satisfied that the proposed development would not have a negative effect on the character of the area, would not be visually dominant or overbearing in the context of its immediate environment, would form a cohesive part of the urban environment, would be a positive addition to the streetscape and reflect an appropriate transition in scale with the surrounding context as established in Policy RES 3 and RES 4, and Section 4.8 of Appendix 9: Building Height Strategy of the Development Plan and Section 3.2 of the Urban Development and Building Height Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018.

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 the Goatstown Local Area Plan 2012 as extended to 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 Dún Laoghaire-Rathdown County Development Plan would be justified for the following reasons and consideration.

- 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 2016.

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

Permission for the development should be granted having regard to guidelines under section 28 of the Act, specifically Specific Planning Policy Requirement 3 and Specific Planning Policy Requirement 4 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 of the relevant development plan or local area plan may indicate otherwise and national policy provided for in Project Ireland 2040 National Planning Framework in particular objectives 13 and 35. An assessment of the proposed development was carried out to determine that the proposed development conforms with the development management criteria in section 3.2 of those guidelines.

The Board further 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 Dún Laoghaire-Rathdown County Development Plan 2016-2022, in relation to Part V provision. 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.

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

Permission for the development should be granted having regard to Policy RES2: Implementation of Interim Housing Strategy which states; 'Specific exemptions to Part V where a reduced social and affordable element may be acceptable are Third level student accommodation of the type that has or would have otherwise qualified for tax relief under Section 50 of the Finance Act 1999 (Refer also to Policy RES12). The proposed scheme has been designed to meet the criteria outlined within 'The Guidelines of Residential Developments for 3rd Level Students, Section 50 of the Finance Act 1999'.

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

Permission for the development should be granted having regard to Paragraph 5.21 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities which states: "In addition to the above, as is the case with student accommodation projects, shared accommodation units will not normally be subject to Part V requirements in relation to the reservation of 10% of the units as social housing because shared accommodation would not be suitable for social housing given that they are not provided as individual self-contained residential units."



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

Permission for the development should be granted having regard to the pattern of development and permissions granted in the Dún Laoghaire-Rathdown jurisdiction for off-campus student accommodation An Bord Pleanála Reference Number ABP-300520-18 at the Blakes and Esmonde Motors Site, Lower Kilmacud Road, Stillorgan and at the Avid Technology International site, Carmanhall Road, Sandford Industrial Estate, An Bord Pleanála Reference Number ABP-303467-19 whereby the Board did not apply Part V requirements.

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016, the National Planning Framework Ireland 2040, the Eastern and Midland Regional Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018.

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, or as otherwise stipulated by conditions hereunder, and the 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 proposed development hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided for under section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and shall not be used for any other purpose without a prior grant of planning permission for change of use.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

3. The proposed development shall be implemented as follows:

- (a) The student accommodation and complex shall be operated and managed in accordance with the measures indicated in the Student Accommodation Management Plan submitted with the application,
- (b) Student House Units shall not be amalgamated or combined.

Reason: In the interests of the amenities of occupiers of the units and surrounding properties.



4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and 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.

5. No advertisement or advertisement structure other than those shown on the plans and particulars submitted with the application shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

6. 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.

7. Proposals for a building name 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(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisement or marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

8. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development or installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

Reason: In the interest of public safety and visual amenity.

9. 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.

10. Prior to the opening or 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 and 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 Design Manual for Urban Roads and Streets 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.

11. 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 interest of public health and surface water management.

12. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

13. (a) 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 and for the ongoing operation of these facilities for each unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

DECISION QUASHED



14. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

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, including hours of working, noise management measures and off-site disposal of construction and demolition waste.

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

16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 0800 to 1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

Reason: In the interest of public health.

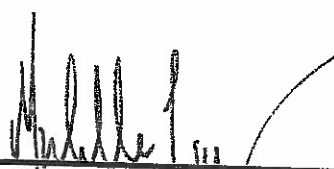
18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains 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.

DECISION QUASHED

19. 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 Price Tender Index 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.



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

Dated this 3rd day of February 2021