



Planning and Development Acts 2000 to 2020

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 11th day of December 2020 by Cherry Core Limited and Jasmine Perfection Limited care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin.

Proposed Development comprises of the following:

- (i) Demolition of the existing three to four storey corrugated iron industrial buildings (currently used as a surface carpark) and two storey dilapidated commercial buildings on site (comprising circa 3,300 square metres);
- (ii) Construction of 189 number Build to Rent apartments (comprising 151 number one-bed apartments, 34 number two-bed apartments and four number three-bed apartments) in three number three to eight storey blocks. The development will be served by 232 square metres of communal residential amenities and facilities, including a communal lounge, multi-functional space, a concierge, a central pedestrian and cycle entrance and a delivery storage area fronting James Street; 1,457 square metres of communal open space, including a 75 square metre roof terrace and three number landscaped courtyards; 257 number bicycle spaces (218 number resident spaces in a secure bicycle storage area and 39 number visitor spaces at ground floor level); and four number car parking spaces (including one number limited

mobility space, one number drop-off and set-down space and two number Go-Car spaces) accessible from Basin View;

- (iii) Improvement works to existing boundary walls; and
- (iv) Associated site and infrastructural works are also proposed which include; foul and surface water drainage; attenuation tanks; landscaping; plant areas; Electricity Supply Board substations; and all associated site development works all located at the Former Steelworks Site at 32A, 32B, 33, 34 and 35 James Street, and a Site off Basin View (629 square metres), 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 site's location close to Dublin City Centre, within an emerging built up area, in close proximity to existing public transport infrastructure and accessible to the inner city;
- (b) The provisions as set out in the Dublin City Development Plan 2016-2022, including the zoning objective Z4, which aims to "to provide for and improve mixed-services facilities";

- (c) The policies as set out in the Dublin City Development Plan 2016-2022, including the location of the site within Strategic Development and Regeneration Area 16;
- (d) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (e) 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;
- (f) The provisions of 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 provisions of the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018 and Sustainable Urban Housing: Design Standards for New Apartments, (Updated) Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020;
- (h) The provisions of the Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009;
- (i) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018;
- (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;

- (o) The provisions of 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;
- (p) The report of the Chief Executive of Dublin City Council;
- (q) The report of the Planning 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 Information for Screening for Appropriate Assessment document 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 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,
- (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.

Conclusions 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 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.

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 Dublin City Development Plan 2016-2022 in relation to building height. Specifically, as a result of the City Development Plan height strategy for this area of 24 metres for residential development, while the proposed development has a maximum height of approximately 25.91 metres (Block B eight-storeys).

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 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 as set out in the document 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 the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which seeks to increase densities on appropriate sites within Dublin City and Suburbs. In addition, permission for the development should be granted having regard to guidelines under section 28 of the Planning and Development Act 2000, as amended, specifically Specific Planning Policy Requirement 3 of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018 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 in Project Ireland 2040 National Planning Framework in particular National Policy 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.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. 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. (a) The proposed development 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 issued by the Department of Housing, Planning and Local Government in March 2018 and shall be used for long term rentals only.
 - (i) Prior to the commencement of development on site the developer shall submit for the written agreement of the planning authority details of the following in respect of each of the blocks permitted as the Build to Rent developments:
 - (ii) 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.

- (iii) A covenant or legal agreement which confirms that each block shall remain owned and operated by a single institutional entity as a Build-to-Rent scheme for a minimum period of not less than 15 years and that no individual residential units shall be let or sold separately in that period.
- (iv) Prior to expiration of the 15 year period referred to in the covenant, the owner shall submit and agree in writing with the planning authority details of the ownership and management structures for the continued operation of the blocks as Build to Rent schemes. Any proposed amendment or deviation from the Build to Rent model authorised in this permission for those blocks shall require a separate grant of planning permission.

Reason: In the interests of orderly development and clarity.

3. 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:
 - (a) Details of privacy screens and buffer zones, which shall be provided between balconies at ground floor levels and above,
 - (b) Glazing for all apartment balconies and patios be frosted or obscured rather than clear glazing,
 - (c) Details of the location of vents and appropriate landscaping in their vicinity. Proposals shall include for natural screening, with vents incorporated into planter beds where they are located within open space or landscaped areas,
 - (d) Glazing for all windows on the western elevation of Block A and northern elevation of Block C shall be frosted or obscured glazing.

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

4. 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.

5. 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.

6. 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

7. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. 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 materials used in any roads or footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.

- (c) 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.
- (d) 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 the overall development, details of which shall be agreed with the planning authority, prior to the commencement of development. It shall address the continual management and assignment of spaces to users and residents over time.
- (e) At least one car parking space should be provided with a functioning electric vehicle charging station or point, and ducting shall be provided for all remaining car parking 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 have 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: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

8. 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 Street 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.

9. 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.

10. 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. 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.

11. 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.

12. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 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 amenities of property in the vicinity.

13. Proposals for an apartment numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of orderly development.

14. 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.

15. 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) The developer is required to engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930-2004) to carry out predevelopment testing at the site. Archaeological testing should take place at the pre-demolition and post demolition phases of the development. No subsurface work shall be undertaken in the absence of the archaeologist without his or her express consent.
 - (b) The archaeologist is required to notify the National Monuments Service in writing at least four weeks prior to the commencement of any site preparations. This will allow the archaeologist sufficient time to obtain a licence to carry out the work.
 - (c) The archaeologist shall carry out any relevant documentary research and will excavate test trenches at locations chosen by the archaeologist, having consulted the proposed development plans.
 - (d) Having completed the work, the archaeologist shall submit a written report to the planning authority and to the National Monuments Service for consideration.

- (e) Where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record (excavation) and or monitoring, may be required and the National Monuments Service will advise the developer with regard to these matters.
- (f) No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the planning authority in consultation with the National Monuments Service.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

16. 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.

17. 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.

18. 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 provisions of 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.

19. A Final Site Specific detailed Construction and Environmental Management Plan shall be submitted, for the written agreement of the planning authority prior to commencement of development.

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

20. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 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 of the development.

21. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An 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 day of 2021