



An
Bord
Pleanála

Board Order ABP- 313266-22

Planning and Development Acts 2000 to 2022

Planning Authority: Dun 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 8th day of April 2022 by Cairns Homes Properties Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin.

Proposed Development comprises of the following:

Construction of a mixed-use scheme of 377 number Built to Rent apartments, community sports hall (circa 933 square metres), along with five number restaurant and cafés (circa 841 square metres), creche (circa 215 square metres), office (circa 195 square metres) and ancillary residents' support facilities and services (circa 1,016 square metres) laid out in six number blocks ranging in height from three to nine storeys (over basement) comprising 21 number studio apartments, 189 number one-bedroom apartments, 159 number two-bedroom apartments and eight number three-bedroom apartments (selected number with balconies), and public realm upgrades as follows:

- (a) Building one (Part three, four, six and seven storeys over basement) consists of 77 number apartments comprising 13 number studio apartments, 30 number one-bedroom apartments, 33 number two-bedroom apartments, one number three-bedroom apartment (with a creche of circa 215 square metres with associated play area at ground floor);

- (b) Building two (Part three, five, seven and eight storeys over basement, (with a two-storey undercroft at ground and first floor levels on northern elevation of building) consists of 95 number apartments comprising seven number studio apartments, 57 number one-bedroom apartments, 24 number two-bedroom apartments, seven number three-bedroom apartments;
- (c) Building three (Part seven and nine storeys over part basement) consists of 54 number apartments comprising 18 number one-bedroom apartments and 36 number two-bedroom apartments (and office of circa 195 square metres);
- (d) Building four (seven storeys over basement) consists of 60 number apartments comprising 42 number one-bedroom apartments and 18 number two-bedroom apartments;
- (e) Building five (six storeys, over basement to Lower Kilmacud Road and seven storeys to the south and west) consists of 62 number units comprising one number studio apartment, 26 number one-bedroom apartments, and 35 number two-bedroom apartments (restaurant and café unit circa 219 square metres at lower ground floor and plaza level and two number restaurant and café units circa 234.1 square metres and circa 133.9 square metres respectively at ground floor level onto Lower Kilmacud Road) along with a double height community sports hall including ancillary areas (circa 933 square metres);
- (f) Building six (five and six storeys) consists of 29 number units comprising 16 number one-bedroom apartments and 13 number two-bedroom apartments (restaurant and café unit circa 185.9 square metres at lower ground floor and plaza level and 68.1 square metres restaurant and café unit at ground floor level onto Lower Kilmacud Road);
- (g) The Build to Rent development will also include ancillary residents' support facilities and services (circa 1,016 square metres at ground floor of Building three and four) as well as open space areas and improvements to the public realm along the Lower Kilmacud Road (to footpath and cyclepath) and The Hill, new road layout (omission of left turning lane, widening of footpath) to The Hill, hard and soft landscaping, set down area on the Lower Kilmacud Road.

- (h) Provision of two number vehicular access points from 'The Hill' into two number separate basements to include basement car parking spaces (119 number); one number set down surface car parking space as well as 866 number bicycle spaces (basement and surface levels) and ancillary areas; pumping stations at basement level, along with solar panels, and green roofs at roof level;
- (i) All associated site development works, open spaces, landscaping, boundary treatment, plant areas, waste management areas, and services provision including Electrical Supply Board substation all located at the former Blakes and Esmond Motors sites, Lower Kilmacud Road, the Stillorgan Road, (N11) and the Hill, Stillorgan, County 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.

Reasons and Considerations

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

- (i) the nature, scale and design of the proposed development which is consistent with the provisions as set out in the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and appendices contained therein;
- (ii) the location of the site on lands zoned "Objective DC" with a stated objective "to protect, provide for and/or improve mixed use district centre facilities" as set out in the Dún Laoghaire-Rathdown County Development Plan 2022-2028;
- (iii) the provisions of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January 2024;

- (v) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December 2020 and the Guidelines for Planning Authorities - Design Standards for New Apartments issued by the Department of Housing, Planning and Local Government in July 2023;
- (vi) 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;
- (vii) the provisions of Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage in September 2021;
- (viii) the Climate Action Plan 2024;
- (viii) the availability in the area of social and transport infrastructure;
- (ix) the pattern of existing and permitted development in the area;
- (x) the submissions and observations received;
- (xi) the Chief Executive's Report and supporting technical reports submitted by the planning authority; and
- (xii) the Inspector's Report.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered the submissions of the applicant and, in the context of an urban setting, the fact that buildings previously existed adjacent to the existing dwelling immediately to the southeast of the site prior to the proposed development site being cleared. With the amendments as proposed by the planning authority to remove a floor in Building number one and omit three units in Building number two, the Board was satisfied the proposed development would not have a significantly overbearing impact on the existing dwelling including in relation to daylight levels and overlooking. Furthermore, the Board considered the proposed development would not result in a proliferation of Build-to-Rent units in the area when considered not just alongside the two other Build-to-Rent developments but the totality of residential in the wider geographic area.

Appropriate Assessment: Stage 1:

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, the Natura Impact Statement submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board 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, other than South Dublin Bay Special Area of Conservation (Site Code: 000210) and South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024) which are the European Sites for which there is a potential likelihood of significant effects.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on South Dublin Bay Special Area of Conservation (Site Code: 000210) and South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (a) the site-specific conservation objectives for the European Sites,
- (b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (c) the mitigation measures which are included as part of the current proposal. In completing the Appropriate Assessment, the Board largely accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' Conservation Objectives.

However, the Board did not concur with the assertion of the Inspector that effects associated with the potential discharge of sediments/pollutants to surface water during the construction and operational stage phase could be screened out on the basis of standard industry practices because the Natura Impact Statement prepared by the applicant's professional ecologist leaned on such practices as mitigation for European Sites in their assessment. The Board, therefore, also considered these potential effects as part of the appropriate assessment in accordance with the Natura Impact Statement submitted with the application.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites in view of the sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

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 and other documents and drawings 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, which is below the thresholds in respect of Item 10(b)(i), (ii) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended);
- (b) the location of the development on land zoned Objective DC – “to protect, provide for an or improve mixed-use district centre facilities.”
- (c) the pattern of development on the lands in the surrounding area;
- (d) the availability of mains water and wastewater services to serve the development.

- (e) the location of the development outside any sensitive location specified in Article 299(c)(1)(v) of the Planning and Development Regulations, 2001 (as amended);
- (f) 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); and,
- (g) the criteria set out in Schedule 7 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 and that the preparation of an environmental impact assessment report would not, therefore, be required 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 not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the Natura Impact Statement submitted with this application, shall be carried out in full.

Reason: In the interest of protecting the environment.

3. The proposed development shall be amended as follows:
 - (a) In building number 2, unit numbers B02.0402 (level 4), B02.0502 (level 5) and B02.0602 (level 6) shall be omitted. Additional fenestration shall be provided to the resulting southeastern elevation to avoid uninterrupted walls which would create a monolithic effect when viewed from the N11 travelling north.
 - (b) In building number 1, level number 5 shall be omitted. The overall height of building number 1 shall be six floors.
 - (c) The public plaza and the main thoroughfare between the Hill and the N11 (including the entirety of "Area C" as shown in the Design Statement) shall provide for unrestricted access at all times in order to encourage pedestrian permeability in the area.

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 residential amenity and permeability.

4. 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, 2020 and be used for long term rentals only. No portion of this development shall be used for short term lettings. Any proposed change in tenure of the residential planning units shall necessitate a separate planning consent.

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

5. Prior to the commencement of development, the owner 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 fifteen years and where no residential units shall be sold separately for that period. The period of fifteen years shall be from the date of occupation of the first residential unit within the scheme.

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

6. Prior to the expiration of the fifteen 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.

7. Details of the materials, colours and textures of all the external finishes to the proposed building shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

8. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

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

Reason: In the interests of amenity and public safety.

10. 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.

Reason: In the interests of visual and residential amenity.

11. The road network serving the proposed development, including turning bays, junctions with the public road, parking areas, footpaths and kerbs, access road to service areas shall be in accordance with the Design Manual for Urban Roads and Streets and the detailed construction standards of the planning authority for such works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

12. The developer shall submit a Car Park Management Plan and details of car parking design, layout and management to the planning authority for agreement in writing prior to the commencement of development.

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

13. All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

14. (a) 833 no. safe and secure bicycle parking spaces shall be provided within the site. Provision should be made for a mix of bicycle types including cargo bicycles and individual lockers. Details of the layout and marking demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Details of the operation and maintenance of the cycle storage facilities shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (c) Electric charging points are to be provided at an accessible location for charging cycles/scooters/mobility scooters. Details to be submitted to and agreed in writing with the planning authority.
- (d) Details of additional short-stay bicycle parking at surface level shall be submitted to and 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.

15. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the relevant Section of the planning authority for such works and services. Prior to the 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.

16. Prior to the commencement of development the developer shall enter into a connection agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

17. The site shall be landscaped, and earthworks carried out 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 interests of residential and visual amenity.

18. 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 provide for the satisfactory future maintenance of this development in the interest of residential amenity.

19. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, an Operational Management Plan which ensures public accessibility, including for local sports and community groups, to the community sports hall.

Reason: To ensure the appropriate management, maintenance and community use of the facility.

20. 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 for each unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and 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. The construction of the development shall be managed in accordance with a Construction Environmental 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 with measures to reflect mitigation described in the submitted Environmental Impact Assessment Report for the application, in addition to the following:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) location of access points to the site for any construction related activity;
 - (c) location of areas for construction site offices and staff facilities;
 - (d) details of site security fencing and hoardings;
 - (e) details of on-site car parking facilities for site workers during the course of construction;
 - (f) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - (g) measures to obviate queuing of construction traffic on the adjoining road network;
 - (h) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;

- (i) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) off-site disposal of construction and demolition waste and details of how it is proposed to manage excavated soil;
- (m) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (n) a record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interests of amenities, public health and safety.

22. 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 Saturday 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.

23. Prior to commencement of development, the applicant 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.

24. 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.

25. The developer shall pay to the planning authority a financial contribution as a contribution in lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the adopted Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any indexation provisions of the Scheme at the time of payment.

Reason: It is a requirement of the Planning and Development Act, 2000, as amended, that a condition requiring contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.

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

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.


Eamonn James Kelly
Eamonn James Kelly

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

Dated this 4th day of March, 2025