

An
Bord
Pleanála

Board Order
ABP-316145-23

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 22/897

Appeal by Ascot Construction Limited care of RPS of West Pier Business Campus, Dún Laoghaire, County Dublin against the decision made on the 27th day of February, 2023 by Kildare County Council to refuse permission for the proposed development.

Proposed Development: Demolition of a two-storey light industrial building, change of use of the site to accommodate residential and retail/commercial uses, and construction of a five to six-storey mixed-use development comprising; a circa 825 square metres retail unit capable of catering for Class 1 or Class 2 uses, including associated office and bin store at ground floor level; 46 number apartments including eight number one-bed units, 28 number two-bed units and 10 number three-bed units at first to fifth floor level; two number communal terraces at fifth floor level including children's play equipment, seating and landscaping; a communal room (circa 138.6 square metres), bin store and bicycle store at ground floor level associated with the proposed apartments; solar photovoltaic panels at roof level; revised access to the site and provision of a loading bay at the existing access road to Whitewater Shopping Centre off Athgarvan Road; 52 number surface level car parking spaces; signage zones on building facades and one number

freestanding (totem) sign; an ESB substation and other associated plant and services within the building footprint at ground floor level; and landscaping, boundary treatments, drainage arrangements, utility connections and all associated site development works at the former Newbridge Metal Products Factory, Athgarvan Road (also known as Military Road), Newbridge, County Kildare.

The proposed development was revised further public notice received by the planning authority on the 31st day of January, 2023. Revisions consist of revisions in the architectural treatment and height of the southern corner section of the building consisting of amended material finish and fenestration, addition of architectural design elements, and a height increase (+1.225 metres) resulting in 21.9 metres overall: revisions to the architectural design of the north-west corner section of the building consisting of additional windows from the first floor and up, and a revised design of the building's entrance, amendments to the material finish and architectural design of ground floor units; revised undercroft entrances (Athgarvan Road and Access Road) to include pedestrian and vehicular gates; removal of one number freestanding (totem) sign as originally proposed; revised bicycle parking provision consisting of 160 number bicycle parking spaces (increased by 12 number spaces); modifications to the proposed site layout consisting of additional planting and improved boundary treatments along the Athgarvan Road and Access Road public realm and internal parking area; and; additional surface water drainage arrangements in the form of raingardens and bioretention tree pits throughout the scheme.

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

Having regard to the provisions of the Kildare County Development Plan 2023-2029, and the location of the proposed development on Tier 1 serviced lands within Newbridge town centre, it is considered that, subject to compliance with the conditions set out below, the proposed development would make efficient use of an underutilised brownfield site and positively contribute to compact growth in a built-up, mixed-use urban area, would positively contribute to an increase in housing stock in this town centre location with a range of social, commercial, retail, and public transport infrastructure, would be acceptable in terms of urban design and building height, would be acceptable in terms of pedestrian and traffic safety, and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure residential or visual amenities, or significantly increase traffic volumes in the area. 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, as amended by the further plans and particulars received by the planning authority on the 22nd day of December 2022, 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.

Reason: In the interest of clarity.

2. Car parking in the area between the front south-east facing building line and the site boundary with the Athgarvan Road shall not be permitted. This area shall be dedicated to public open space to serve the development and shall consist of hard and soft landscaping treatment. Vehicular access to this area shall not be permitted (save for emergency and maintenance purposes only). The undercroft vehicular access to this area at the north-east end of the proposed retail unit shall be dedicated as public open space (unless an alternative use is permitted by way of future planning permission). There shall be no wall and/or railings along the site frontages with the adjacent Athgarvan Road and the access road to the south-west, as shown on the proposed site layout drawing number 000504, submitted to the planning authority on the 22nd day of December 2022. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority detailed design proposals indicating compliance with this condition and shall include, inter alia, a landscaping plan for this area.

Reason: In the interest of visual amenity and to provide public open space at ground level to serve the development.

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

Reason: In the interest of visual amenity.

4. 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.

5. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the retail unit.

Reason: In the interest of visual amenity.

6. Proposals for a development name and apartment 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.

7. 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 interest of visual amenity.

8. The internal road network serving the proposed development, including loading bays, junctions, parking areas, footpaths and kerbs, and access road to the car parking areas shall be in accordance with the requirements of the Design Manual for Urban Roads and Streets (DMURS) and the detailed construction standards of the planning authority for such works.

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

9. (a) The maximum number of car parking spaces serving the proposed residential development shall be 40 in number, of which a maximum number of car parking spaces serving the retail unit shall be two number accessible spaces. The location and layout of these spaces shall be agreed in writing with the planning authority prior to commencement of development.
- (b) Residential car parking spaces shall be permanently allocated to residential use and shall not be sold, rented, or otherwise sub-let or leased to other parties.
- (c) A minimum of 20% of all residential car parking spaces shall be provided with functioning electric vehicle charging stations or points, 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.

- (d) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and submitted to and agreed in writing with the planning authority.

Reason: In the interest of sustainable transportation.

10. 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. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interest of amenity and public safety.

11. 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 details for the attenuation and disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interest of sustainable urban drainage.

12. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

13. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:
- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
 - (c) details of proposed play equipment and street furniture including bollards, lighting fixtures and seating;
 - (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

14. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed

in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

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

15. (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 shall be submitted to, and agreed in writing with, the planning authority not later than 6 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.

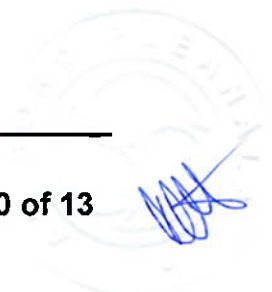
16. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning



authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

17. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan (CEMP), 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:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;
 - (d) Details of on-site car parking facilities for site workers during the course of construction;
 - (e) 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;
 - (f) Measures to obviate queuing of construction traffic on the adjoining road network;
 - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;



- (h) 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;
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) 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;
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage asbestos and excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains in accordance with the requirements of CIRIA C532, Control of water pollution from construction sites.
- (m) A record of daily checks that the works are being undertaken in accordance with the CEMP shall be kept for inspection by the planning authority.

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

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

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

19. 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.



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 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.



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

Dated this 30th day of April 2024.