

Planning and Development Acts 2000 to 2022

Planning Authority: South Dublin County Council

Planning Register Reference Number: LRD23A/0002

Appeal by Ballyboden Tidy Towns CLG care of Marston Planning Consultancy of 23 Grange Park, Foxrock, Dublin and by Moyville Residents' Association of 62 Moyville, Rathfarnham, Dublin against the decision made on the 29th day of May, 2023 by South Dublin County Council to grant subject to conditions a permission to Shannon Homes Dublin Unlimited Company care of McGill Planning Limited of 22 Wicklow Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of the existing former institutional buildings and associated outbuildings (circa 5,231 square metres) and construction of a new residential development comprising 402 number apartments (39 number one-beds, 302 number two-beds and 61 number three-beds) within three number blocks ranging in height from two to five storeys over basement/ lower ground floor. All residential units will be provided with associated private balconies/terraces to the north/south/east/west elevations. The development will include the following: Block A up to five storeys over basement/lower ground floor providing 118 number units. Block B up to five storeys over basement providing 123 number units. Block C up to five storeys over basement/lower ground floor

providing 161 number units. The development will also include a creche (circa 656 square metres) and two number retail units (circa 262 square metres and circa 97 square metres) all located within Block A, along with circa 322 square metres of internal residential communal space located in Block C. The development will include the provision of a new public park in the north of the site along Taylor's Lane. The development will include 290 number car parking spaces and 1,054 number cycle parking spaces provided at basement/surface level. The development will include for a revised vehicular access from Edmondstown Road and an emergency vehicular access from Taylor's Lane along with pedestrian/cyclist accesses to/from the site. The development will include for road improvement works along Edmondstown Road, including the existing junction of Scholarstown Road/Edmondstown Road. The development will include for all associated site development works, open spaces, landscaping, SuDs features, boundary treatments, plant areas, waste management areas/bin stores, car/cycle parking areas (including EV parking), and services provision (including ESB substation/ kiosks), all at site at Taylors Lane and Edmondstown Road, Taylors Lane, Ballyboden, Dublin and including the former 'Good Counsel' lands and former pitch and putt course.

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:

- (a) the location of the site within the established 'Dublin City and Suburbs' area on lands with the zoning objective 'Existing Residential (RES)' as per the South Dublin County Development Plan 2022-2028, which aims to protect and/or improve residential amenity,
- (b) the nature, scale and design of the proposed development, which is in accordance with the policies and objectives of the South Dublin County Development Plan 2022-2028,
- (c) the pattern of existing and permitted development and the availability of adequate social and physical infrastructure in the area,
- (d) 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,
- (e) the provisions of Project Ireland 2040 – the National Planning Framework, which identifies the importance of compact growth,
- (f) 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,
- (g) 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 July 2023,
- (h) the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) issued by the Department of Environment, Heritage and Local Government in May 2009,

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- (i) 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 Environment, Community and Local Government in 2019,
- (j) the provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure,
- (k) the provisions of the Greater Dublin Area Transport Strategy 2022-2042 prepared by the National Transport Authority,
- (l) the Climate Action Plan 2023 prepared by the Government of Ireland,
- (m) the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), 2009,
- (n) the submissions and observations received,
- (o) the reports from the planning authority, including its assessment and determination that the height, scale and density of the proposed development were considered appropriate for the site given its zoning and accessible urban location. Lower densities would, in the planning authority's assessment, represent an inefficient and poor use of serviced lands. The proposed density was considered acceptable and accords with local, regional and national Guidelines which encourage higher densities to activate and consolidate existing lands within urban areas acceptable within the South Dublin County Development Plan 2022-2028, and
- (p) 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 European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, which comprises a built-up urban area, the distances to the nearest European Sites and the hydrological pathway considerations, submissions and observations on file, the information and reports submitted as part of the subject application, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector that, by itself or in combination with other development, plans and projects 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 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 Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended,

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- (b) the location of the site on lands that are zoned for residential use under the provisions of the South Dublin County Development Plan 2022-2028 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),
- (c) the location of the site in an established residential area served by public infrastructure and the existing pattern of development in the vicinity,
- (d) the location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended, and the absence of any potential impacts on such locations,
- (e) 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),
- (f) the criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended,
- (g) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation, other than the Environmental Impact Assessment Directive, and
- (h) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Outline Construction and Environmental Management Plan, the Resource and Waste Management Plan, the Operational Waste and Recycling Management Plan, the Infrastructure Design Report, the Ecological Impact Assessment, the Archaeological Assessment,

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the Site Specific Flood Risk Assessment, the Air Quality Assessment, and the Environmental Noise Survey,

the Board concluded that, by reason of the nature, scale and location of the proposed development, 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 be consistent with the zoning objectives and other policies and objectives of the South Dublin County Development Plan 2022-2028, would constitute an acceptable quantum of development at this location, which would be served by an appropriate level of public transport, social and community infrastructure, would provide an acceptable form of residential amenity for future occupants, would constitute an acceptable level of density in this location given its zoning and accessible urban location on serviced lands, would provide public open space which exceeds the minimum 'on-site' requirement for lands zoned 'RES' and 'Institutional Lands/'Windfall' Sites', would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of built heritage impacts, urban design, height and scale of development, would be acceptable in terms of pedestrian and traffic safety, would not be at risk of flooding or increase the risk of flooding to other lands, would not result in any unacceptable ecological or biodiversity impacts, and would be capable of being adequately served by wastewater and water supply networks. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the proposed 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 mitigation measures outlined in the plans and particulars submitted with the application, including those set out in Table 9 of the Ecological Impact Assessment, shall be carried out in full, except where otherwise required by conditions attached to this permission.
 - (b) Prior to commencement of development, a breeding bird survey shall be undertaken during an appropriate period and utilising current guidance on the undertaking of such surveys.
 - (c) The specification for green roofs in the development shall be capable of sustaining rooftop meadow grassland.

Proposals in relation to (b) and (c) above shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

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3. The proposed development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

4. 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.

Reason: In the interest of visual amenity.

5. 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.

6. 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. The lighting scheme shall incorporate the requirements of the Ecological Impact Assessment mitigations measures. Such lighting shall be provided prior to the making available for occupation of any apartment unit.

Reason: In the interest of amenity, public safety, and nature conservation.

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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 and residential amenity.

8. (a) The residential car parking facilities hereby permitted shall be reserved solely to serve the proposed residential units.
- (b) The car parking facilities for the creche and retail units shall be reserved for these units and shall not be available to other users.
- (c) Parking shall be managed in accordance with the Parking Strategy submitted with the application.

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

9. A minimum of 10% parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Such proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development. The car parking spaces for sole use of the car sharing club shall also be provided with functioning electric vehicle charging stations/points.

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



10. A total of 1,054 number bicycle parking spaces (832 long-term and 222 short-term) shall be provided within the site. Details of the layout, marking demarcation, and security provisions for these spaces shall be in accordance with the details submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

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

11. Prior to commencement of development, the following shall be submitted to, and agreed in writing with, the planning authority:
- (a) Plans detailing traffic management measures at the Edmonstown/Scholarstown Road junction.
 - (b) Plans ensuring that all works integrate with upgraded cycle lane infrastructure and do not conflict with the overall Cycle South Dublin Scheme.

Reason: In the interest of traffic safety and sustainable transportation.

12. Prior to the occupation of the proposed development, a finalised Mobility Management Plan (Residential Travel Plan) shall be submitted to, and agreed in writing with, the planning authority. This plan shall include modal shift targets and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents of the development and to reduce and regulate the extent of parking. 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.



13. (a) Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- (b) Proposals in this regard shall comply with the overall principles of the surface water strategy submitted with the application and shall investigate opportunities to include additional natural SUDS features to replace/reduce the proposed extent of underground attenuation.
- (c) Full details of surface water drainage proposals, including a management and maintenance plan, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

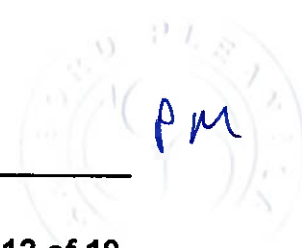
Reason: In the interest of public health and surface water management.

14. The developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann prior to commencement of development.

Reason: In the interest of public health.

15. All plant, including extract ventilation systems, shall be sited in a manner so as not to cause nuisance at sensitive locations due to emissions. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations. Basement ventilation shall not be positioned adjacent to apartment terraces.

Reason: In the interest of residential amenity.



16. (a) The site shall be landscaped in accordance with a detailed comprehensive scheme of landscaping and play facilities, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Proposals shall include an additional play space in the main northern public open space, as well as proposals for additional natural and free play opportunities throughout the development.
- (c) Proposals shall include a detailed landscape plan for the St. Catherine's Gate area of public open space on lands outside the applicant's ownership. The plans shall include the consent (as relevant) from parties with a legal interest in the land, as well as a management and maintenance plan for this area.
- (d) The landscaping proposals shall be managed and maintained in accordance with the Landscape Maintenance and Management Report submitted with the application, unless as otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

17. 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 prior to commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

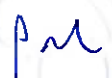
Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

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

Reason: In the interest of sustainable waste management.

19. The construction of the proposed 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 proposed development with measures to reflect mitigation described in the submitted Ecological Impact Assessment 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/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 interest of amenities, public health and safety.

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20. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays, and not at all on Sundays or public holidays. Deviation from these times shall 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.

21. (a) No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site and adjoining lands under the control of the applicant unless authorised by a further grant of planning permission.

(b) The windows to the proposed creche and retail units shall not be obscured by adhesive material or otherwise, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

22. (a) All areas not intended to be taken in charge by the planning authority shall be maintained by a legally-constituted management company.

(b) Details of the legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation. The management scheme shall provide adequate measures for the future maintenance of public open spaces, roads and communal areas.

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

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23. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operations (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

24. 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 Act 2000, as amended, and of the housing strategy in the development plan of the area.

25. 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 planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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.

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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



Peter Mullan

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *11th* day of *October*, 2023.