



An
Bord
Pleanála

Board Order
ABP-318108-23

Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

Planning Register Reference Number: LRD0012/S3

Appeal by Andrew Hehir and Angela Lloyd care of Marston Planning Consultancy of 23 Grange Park, Foxrock, County Dublin against the decision made on the 31st day of August, 2023 by Fingal County Council to grant subject to conditions a permission to JOM Investments Unlimited Company care of RPS Group Limited of West Pier Business Campus, Dún Laoghaire, County Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Residential development of three apartment blocks, all four to nine storeys in height, comprising 192 apartment units (four number one bedroom and 188 number two bedroom units), shared residential services (concierge, multifunction unit and gymnasium), and open amenity spaces over a basement. The apartment blocks are to be constructed above a basement level and partially shared podium structure (undercroft at ground-level), comprising:

- (a) Block one will contain 64 units consisting of one number one bed unit and 63 number two bed units with a concierge space (158.2 square metres) at ground-floor level;
- (b) Block 2 will contain 62 units consisting of two number one bed units and 60 number two bed units with a multifunction area (167.8 square metres) at ground-floor level; and
- (c) Block 3 will contain 66 units consisting of one number one bed unit, 65 number two bed units.

The proposed development will also provide:

180 number car parking spaces for residents, 12 number car parking spaces for visitors; relocation of permitted 254 car parking spaces cater for Swift Square Office Park personnel, consisting of 214 spaces at the new basement level (including one disabled space) and 40 spaces at ground-floor level (undercroft); 33 motorcycle parking spaces; 392 bicycle parking spaces for residents and 100 bicycle parking spaces for visitors; 30 bicycle parking spaces for Swift Square Office Park personnel; communal and public open spaces, including play areas; private open space to apartments; residential gymnasium space (89.7 square metres) at ground floor level; temporary car parking area and construction access from Northwood Avenue to be removed on completion of the proposed works; all associated plant, drainage, utility, boundary, landscaping, lighting, refuse storage, access, and site development works all at Swift Square Office Park, Off Northwood Avenue, Santry, 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 has had regard to the following:

- (a) the nature, scale, and extent of the proposed development,
- (b) the provisions of the Project Ireland 2040 National Planning Framework,
- (c) the provisions of the Climate Action Plan 2023 – Changing Ireland for the Better,
- (d) the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018),
- (e) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments (July 2023),
- (f) the provisions of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (January 2024),
- (g) the provisions of the Eastern and Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031,
- (h) the provisions of the Fingal Development Plan 2023-2029 including the ‘MRE Metro and Rail Economic Corridor’ zoning for the site,
- (i) the documentation submitted with the planning application, such as the Environmental Impact Assessment Report (EIAR) and the Appropriate Assessment Screening Report, plus the applicant's response to the grounds of appeal,
- (j) the submissions and observations received on file including from the planning authority, prescribed bodies, and third parties,

- (k) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development, and the likely significant effects on European sites,
- (l) the planning history of the site and adjoining areas,
- (m) the availability in the area of a wide range of social and public transport infrastructure, and,
- (n) 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 site in an established built-up urban area, the distances to the nearest European sites, the hydrological pathway considerations, the submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening Report, and the Inspector's report.

In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and 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

The Board completed an Environmental Impact Assessment of the proposed development taking account of:

- (a) the nature, scale, location, and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions received from the applicant, planning authority, prescribed bodies, and observers in the course of the application, and,
- (d) the Planning Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the developer, adequately identifies and describes the direct, indirect, secondary, and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application.

Reasoned Conclusion on the Significant Effects

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated where relevant, as follows:

- Population – There would significant positive impacts on population due to the increase in housing stock within the local area.

- **Air Quality and Noise and Vibration** – The subject site is in close proximity to residential properties and the Swift Square Office Park blocks. Construction activity could give rise to dust and noise nuisance from the subject site to nearby receptors. Recommended mitigation measures in this regard are well-proven, good practice measures and are capable of being successfully implemented.
- **Sunlight and Daylight** – The Environmental Impact Assessment Report contains a Daylight Access Impact Analysis and a Sunlight Access Impact Analysis. These demonstrate that the proposed development would not have a significant adverse impact on adjoining properties.
- **Landscape and Visual** – While the proposed development is up to nine-storeys in height, it is consistent in mass, scale, and height with the existing and permitted development in the area and it is typical of the emerging baseline of this mixed-use urban area.
- **Traffic and Transport** – The proposed development would not give rise to undue additional vehicular traffic impact in the area and there is adequate public transport provision in proximity to the site.
- **Climate** – The development would be consistent with the broad planning and climate framework that is in place as it would sustainably develop a brownfield, urban site which is adequately served by public transport.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector. Overall, the Board is satisfied that the proposed development would not have any unacceptable effects on the environment.

Proper Planning and Sustainable Development

The Board considered that the proposed residential development, subject to compliance with the conditions set out below, would be in accordance with national, regional, and local planning policy, would make efficient use of a brownfield surface car park and positively contribute to compact growth in a built-up mixed-use urban area, would positively contribute to an increase in housing stock in an area 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, 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. The mitigation measures identified and contained within the Environmental Impact Assessment Report and other plans and particulars submitted with the application shall be implemented in full, except where otherwise required by conditions attached to this permission.

Reason: In the interests of clarity, and of protecting the environment and public health.

3. The developer shall provide a piece of public art or sculpture or architectural feature, to be designed in consultation with the planning authority. The piece of art shall have a relationship with the area. The location of the piece of art shall be agreed with the planning authority prior to the commencement of works on site.

Reason: To comply with objective DMSO194 of the Fingal Development Plan 2023-2029.

4. 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.

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. 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.

7. (a) The number of car parking spaces serving the proposed residential development shall be 96 in number. The location and layout of these shall be agreed in writing with the planning authority prior to the 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 10% of all 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.

- (e) Cycle parking and storage shall comply with SPPR 4 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (January 2024). All cycle parking details shall be submitted to and agreed in writing with the planning authority and shall be in situ prior to the occupation of the development.

Reason: In the interest of the proper planning and sustainable development of the area.

- 8. Prior to the commencement of development, the developer shall submit for the written approval of the planning authority:
 - (a) the detail of the pedestrian crossings of the two vehicular access junctions to the site, and,
 - (b) a drawing demonstrating that there is adequate pedestrian – vehicular intervisibility at the two vehicular access junctions on site.

Reason: In the interests of the safety of vulnerable road users and the proper planning and sustainable development of the area.

9. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. The detail shall include measures for the protection of bats. Such lighting shall be provided prior to the making available for occupation of any residential unit.

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

10. 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 interests of public health and surface water management.

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

Reason: In the interest of public health.

12. The strip of broadleaved woodland within the northern boundary of the northwest section of the development site, to be used for temporary car parking during the construction phase, shall be retained intact and protected from any damage.

Reason: In the interests of visual amenity, the protection of trees, and the proper planning and sustainable development of the area.

13. The site shall be landscaped in accordance with the detailed scheme of landscaping which accompanied the application submitted, unless otherwise agreed in writing with the planning authority prior to commencement of development. Play equipment shall be agreed in writing with the planning authority prior to the commencement of development or as otherwise agreed with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

Reason: In the interests of residential and visual amenity.

14. The proposed development shall be provided with noise insulation to an appropriate standard having regard to the location of the site within Dublin Airport Noise Zone C and D.

Reason: In the interest of residential amenity and to comply with objective DAO11 of the Fingal Development Plan 2023-2029.

15. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the 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.

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

- 16. (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 six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations, and designs of which shall be included in the details to be submitted.

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

17. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for 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.

18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (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. Hoardings shall include a one square metre area on each frontage detailing site management contact details;
 - (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 road network;
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any 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 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;

- (m) 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;
- (n) a community liaison officer shall be appointed for the duration of the construction works.

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

19. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interests of environmental protection and orderly development.

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

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

21. Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, the details of any crane operations and ensure they do not impact on flight procedures and air safety. The developer shall also notify the Irish Aviation Authority and Dublin Airport Authority of the intention to commence crane operations with a minimum of 30 days' notice of their erection.

Report: In the interests of residential amenity and aircraft safety.

22. 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.

23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

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 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 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.

25. 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.

26. The developer shall pay a financial contribution to the planning authority as a special contribution under section 48(2)(c) of the Planning and Development Act, 2000 (as amended), in respect of the upgrade of the R108/Northwood Avenue road junction and the Old Ballymun Road/Northwood Avenue road junction. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *22nd* day of *January*, 2024.

