An Bord Pleanála

Board Direction

Ref: PL06S.244732

The submissions on this file and the Inspector's report were considered at a Board meeting held on August 7th 2015.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons, considerations and conditions.

Reasons and Considerations

Having regard to the land use zoning objective for the area in the South Dublin County Development Plan 2010-2016, to the pattern of existing residential development in the area and to the design and layout of the proposed development including retention of the existing stone wall/hedgerow/trees along the site frontage onto Scholarstown Road, it is considered that, subject to compliance with the Conditions in the Second Schedule, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic 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 in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 7th day of May 2015, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

   Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) Apartment Block B shall be relocated 5 metres further eastwards from the western site boundary than as shown on the submitted drawings, with the consequent enlargement of the semi-private open space area around the building and an adjustment of the visitor surface car parking area and associated footpath/carriageway.

(b) House numbers 228 and 229 shall be omitted from the development, together with their associated car parking and circulation areas, and the land thus released shall be laid out as additional public open space.

(c) The proposed eastern entrance from the development onto Scholarstown road, adjoining the main central open space, and to the north of house number. 173, and its associated carriageway and footpath from the frontage of house number 173 to the Scholarstown road, shall be omitted. The roadway fronting houses 164 – 173 shall be developed as a shared surface homezone, with a shared surface turning area to the immediate west of house number 173. The remainder of the area thus released shall be laid out as additional public open space, so as to provide full continuity of open space along the inner (southern) side of the Scholarstown road frontage. The existing hedgerow and trees along Scholarstown road, whose removal would have been necessitated by the provision of this road, shall be retained.

(d) House number 122 shall be omitted from the development, together with its associated car parking and circulation area, and the land thus released shall be laid out as additional public open space.

(e) The rear windows at first floor level to House Types 4A and 4B shall be fitted with opaque glass.

Revised drawings showing compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of pedestrian and traffic safety, and to allow for increased public open space provision.

3. The period during which the development hereby permitted may be carried out shall be 5 years from the date of this order.

Reason: In the interest of orderly development.

4. The 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 any development.

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

5. (a) Details of the materials, colours and textures of all external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All pitched roofs shall be dark-grey or blue-black in colour with ridge tiles in the same colour as the roofs.

(b) The boundary treatment between individual back gardens of dwellings shall be of substantial and durable construction and shall be two metres in height. Walls, if constructed of plain concrete blockwork, shall be capped and rendered on both sides. If fencing is used for this purpose, it shall be appropriately treated and of a quality so as to ensure a lifespan of 20 years minimum.

Reason: In the interest of residential and visual amenity.

6. Notwithstanding the documentation submitted, the entire development, with the exception of the apartments and their associated semi-private open space and associated visitor car parking areas, shall be maintained by the developer until taken in charge by the local authority, and shall be constructed in accordance with the authority's taking in charge construction standards. All public open spaces, roads, cycle tracks and footpaths, including the footpath links/connections to the adjoining Woodfield estate to the west, shall be taken in charge by the local authority upon completion of the development, or, if the development is phased, upon completion of each phase of the development.

Reason: In the interest of residential and visual amenity, and as it is considered appropriate that the development, other than the specified areas associated with the proposed apartments, should be taken in charge by the local authority upon completion.

7. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and the underground car parking, shall be in accordance with the detailed standards of the planning authority for such works.

(b) The site layout shall be revised by the provision of bollards between the culs-de-sac / turning areas and the footpath/cycle track running along the northern part of the site to prevent cars from accessing the track.

(c) Parking signage, to a design to be agreed in writing with the planning authority, shall be provided at the visitor spaces at the crèche, to designate the parking for short-term use only.

(d) An additional footpath shall be constructed from the Stocking Lane entrance to the first cul-de-sac / turning area (as modified by condition 2 (b) of this permission).

(e) the cycle track along Stocking Lane at the access to the development shall be redesigned in line with the National Cycle Manual

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

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

9. The proposed childcare facility shall operate only Monday to Friday between 8.00 am and 6.30 pm, and shall not operate on Saturdays, Sundays or Public Holidays. Any change in the hours of operation shall be the subject of a separate planning application.

Reason: To limit the scale of the development in the interest of the residential amenities of the area.

10. A secure outdoor play area shall be provided for the use of children attending the childcare facility, details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of residential amenity and safety.

11. No development shall commence on site until a revised Landscape Plan has been submitted to and has been agreed in writing with the planning authority. The Landscape Plan shall be undertaken by a qualified and experienced Landscape Architect and shall address the following matters:

    (a) No trees on the site are to be felled on site until a rationale for the felling, which clearly distinguishes between the condition of the trees and the impact of the proposed development, has been proposed and agreed with the planning authority. An amended Arborist's Report addressing this shall be provided as part of the Landscape Plan.
    (b) The Landscape Plan shall, inter alia, provide full details of the proposed play spaces, confirm universal access to the central public open space, and to all links to the adjoining Woodfield estate to the west, provide cross-sections including through hedgerow No. 2 and provide full details of any proposed pollarding of trees along this hedgerow.

    Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a reasonable standard of landscape.

12. (a) The Landscape Plan, as approved under condition no. 11 above, shall be implemented in full within the first planting season following completion of the development (completion of works on site), or following completion of each phase of the development if the development is phased.
    (b) All hard and soft landscaping works shall be completed in full accordance with the approved Landscape Plan.
    (c) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within three years of planting, shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.

    Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the agreed designs.

13. A Landscape Architect shall be retained by the developer for the duration of the project, to pay periodic site visits to ensure that construction works shall not compromise the agreed landscaping works, to ensure adequate protection of the existing trees agreed for retention and to supervise the implementation of the Landscape Plan.

A certificate of effective completion for the agreed Landscape Plan shall be submitted to the planning authority upon completion of the landscape works, and such certificate shall be prepared by a qualified Landscape Architect.

Reason: To ensure the provision of an adequate standard of landscaping works in accordance with the agreed Landscape Plan.

14. A Tree Protection Plan for all trees, shrubs and hedgerows specified for retention shall be compiled by a qualified Arborist and shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any work on site. No development works shall be carried out within any area of protection required by the Tree Protection Plan. In particular there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil or chemicals, or lighting of fires within such protection areas.

Reason: To protect the trees, shrubs and hedgerows specified for retention and in the interest of visual amenity.

15. A qualified arborist or other suitably qualified person shall be retained by the developer for the duration of the project, to pay periodic site visits as appropriate to ensure that construction works shall not compromise the agreed tree protection measures and to ensure adherence to the recommendations as set out in the Arborist's Report.

Reason: In the interest of tree protection, retention and preservation, biodiversity and amenity.

16. Prior to the 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 3 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 existing trees on the site

17. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility, and to ensure the use of locally appropriate placenames for new residential areas.

18. 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. All existing overhead cables that bound or cross the site shall be undergrounded as part of the site development works, at the developer's expense.

Reason: In the interests of visual and residential amenity.

19. Public lighting shall be provided in accordance with a scheme which shall include lighting along pedestrian routes through open spaces, and along the pedestrian links to the adjoining Woodfield estate to the west of the site, details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Such public lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

20. Construction and demolition waste shall be managed in accordance with a Construction Waste and Demolition Management Plan, which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. This Plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interests of sustainable waste management.

21. 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.

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

22. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 agreement has been received from the planning authority.

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

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 operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the 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 social and affordable housing in accordance with the requirements of section 96 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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 for 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 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.

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 the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

27. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of upgraded pedestrian crossings of Stocking Lane and Scholarstown road, provision and relocation of bus stops on Stocking Lane, improvement work between the Stocking Lane/Scholarstown Road junction and the Scholarstown Road/Edmundstown Road junction, including upgrading of traffic signals, and works to provide continuity of cycle tracks outside the site area. 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 the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

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

Notes

Note 1

The Board did not share the Inspector's concerns regarding the heights of Apartment Blocks A and B and considered that the relocation eastwards of Block B, as specified in condition 2(a), would be sufficient to protect the residential amenities of houses on the neighbouring Woodfield estate.

Note 2

In imposing condition 2(b), the Board had regard to the submission of the National Transport Authority, and to the other submissions on file regarding the potential future need to improve the junction of Stocking Lane and Scholarstown Road to the east of the site, and was not satisfied that the erection of these particular houses might not interfere with such future road improvement works.

Note 3

In imposing condition 2(c), the Board had regard to the planning history of the site and to the points raised in the appeal submissions in relation to the proposed second entrance to Scholarstown Road, and was satisfied that this entrance was not justified and that its omission was appropriate in the light of the need to achieve filtered permeability on the site, as noted by the National Transport Authority, and to provide continuity of public open space in this area.

Note 4

The Board concurred with the Planning Authority and the Inspector that a ten year duration of permission for the proposed development had not been justified, and noted that the applicant had indicated, in its submission to the Board on 5th May 2015, that five years was a sufficient time in which to complete this residential development and that it was happy to comply with a five year duration restriction. Condition 3 refers.

Note 5

The Board considered that the entirety of the development, other than the apartments and associated semi-private open space and car parking areas, should be taken in charge by the local authority upon completion and that it would be inappropriate that open spaces and other areas associated with conventional housing, including the footpaths and open space links to the adjoining lands to the west, should be controlled and managed by private management company. In this context, the Board had regard to the provisions of Departmental Guidance regarding the completion and taking in charge of residential developments, and in particular circular letter PD1/08. Condition 6 refers.

Note 6

The Board had regard to the report of the Council's Roads and Transportation Section in relation to certain alterations and improvements to the roads in the vicinity of the site, including alterations to certain of the submitted proposals, incorporating upgraded pedestrian crossings of Stocking Lane and Scholarstown road, provision and relocation of bus stops on Stocking Lane, and works to provide continuity of cycle tracks outside the site area, and concurred with the Section that these works are necessary and justified as a direct result of the development. However, the Board was of the view that it would be inappropriate to require by condition that these works be carried out by the developer, since they are outside the lands controlled by the developer, and accordingly considered that the works in question should be carried out by the local authority and funded by the developer pursuant to a special development contribution under Section 48 (2) (c) of the Planning and Development Act. Condition 27 refers.

Board Member: _____ Date: 11th August 2015

Philip Jones