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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3781/17**

**Appeal** by Christine Walsh and Paul Kirwan care of O'Connor Whelan Limited of 222-224 Harold's Cross Road, Dublin against the decision made on the 16<sup>th</sup> day of April, 2018 by Dublin City Council to grant subject to conditions a permission to Kavcre Saint Clare's Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Demolition of existing structures, numbers 115, 117 and 119 Harold's Cross Road, Dublin and all associated structures to rear, construction of one number part four-storey/part five-storey apartment block fronting Harold's Cross Road (Block J1) and one number four-storey apartment block to the rear (Block J2) comprising 23 number residential units in total (10 number one bedroom units and 13 number two bedroom units). Provision of balconies/terraces on the south, east and west elevations. Provision of open space comprising circa 510 square metres. Pedestrian access to be provided off Harold's Cross Road. Extension to the basement level to provide for access from the proposed Block J2. Provision of 160 number car parking spaces and 226 number bicycle parking spaces at

basement level. Landscaping, Sustainable Urban Drainage Systems drainage, revised boundary treatments and all necessary site works and site services works to facilitate the development. The proposed development will result in an overall increase in units from 156 number to 179 number units. All within the site of previously permitted development under planning register reference number 2186/15, An Bord Pleanála appeal reference number PL 29S.245164, on a site of circa 1.7 hectares at the former Saint Clare's Convent and numbers 115-119 Harold's Cross Road, Harold's Cross, Dublin. The application site includes a Protected Structure, RPS Number 3583.

## **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.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## Reasons and Considerations

Having regard to the national guidelines, the residential zoning (Z1) on the site, the policies and objectives of the Dublin City Development Plan 2016-2022, the current planning history on the site and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not have a negative impact on the character and setting of any protected structure. 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 submitted to the planning authority on the 20<sup>th</sup> day of March, 2018 and by the plans and particulars received by An Bord Pleanála on the 12<sup>th</sup> day of June, 2018 and on the 13<sup>th</sup> day of August, 2018, 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. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold or rented separately for that period.

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

3. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details of the management company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

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

4. Prior to the expiration of the 15-year period for Build-to-Rent use on site, the developer shall submit to, and agree in writing with, the planning authority ownership details and management structures proposed for the continued operation of the entire development.

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

5. The development hereby permitted shall operate in accordance with the definition of Build-to-Rent developments as set out in Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (March, 2018) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

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

6. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted by An Bord Pleanála under appeal reference number PL 29S.245164 (planning register reference number 2186/15), and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

7. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to An Bord Pleanála on the 12<sup>th</sup> day of June, 2018 and the 13<sup>th</sup> day of August, 2018. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

8. Appropriate childcare facilities, in accordance with “Childcare Facilities: Guidelines for Planning Authorities” issued by the Department of the Environment and Local Government in June, 2001, shall be provided and shall be the subject of a separate application for planning permission to the planning authority.

**Reason:** To comply with the provisions of these Guidelines.

9. Site development and building works shall be carried out only between the hours of 0800 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 will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

10. Water supply and 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 interest of public health.

11. 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.

12. 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.

13. 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 noise management measures, traffic management measures and off-site disposal of construction/demolition waste.

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

14. 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.

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**Paul Hyde**

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

**Dated this            day of            2018.**