

**Planning and Development Acts 2000 to 2020**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3739/20**

**Appeal** by Patrizia Mount Argus S.á.r.l. care of Tony Bamford Planning of Airport Hub, Furry Park, Swords Road, Santry, Dublin against the decision made on the 15<sup>th</sup> day of January, 2021 by Dublin City Council in relation to the application by Patrizia Mount Argus S.á.r.l. for permission for development comprising retention permission for Area A: Gate installed at the entrance immediately west of the Scout Hall off Mount Argus Road; Area B: Gates and additional railings installed at the vehicular entrance adjacent to the ESB substation at the north-east corner of the site off Mount Argus Road; Area C: Gates installed at the most easterly pedestrian entrances (southern side of the development) either side of the ramped vehicle access off Kimmage Road Lower. Installation of railings installed atop the low wall at the south-east boundary of the site on Kimmage Road Lower; Area D: Bollards at each end of the pedestrian bridge at the south-west of the overall site; Area E: Bollards installed outside concierge office and railings along the edge of the bin store area at the rear of the Scout Hall, all at Lot 1, Kimmage Road Lower and Mount Argus Road, Mount Argus Road, Mount Argus, Harold's Cross, Dublin. The site is located within the former attendant grounds of Mount Argus Church bounded generally by Kimmage Road Lower to the south-east, the private access road to Mount Argus Church and Monastery to the south-west, Mount Argus Church (Protected Structure Reference Number 4260) and Monastery

to the north-west; and Mount Argus Road to the north. In accordance with the plans and particulars lodged with the said Dublin City Council (which decision was to grant subject to conditions a permission for retention of Area D: Bollards at each end of the pedestrian bridge at the south-west of the overall site and retention of Area E: Bollards installed outside concierge office and railings along the edge of the bin store area at the rear of the Scout Hall, and to refuse permission for retention of Area A: Gate installed at the entrance immediately west of the Scout Hall off Mount Argus Road; retention of Area B: Gates and additional railings installed at the vehicular entrance adjacent to the ESB substation at the north-east corner of the site off Mount Argus Road; and retention of Area C: Gates installed at the most easterly pedestrian entrances (southern side of the development) either side of the ramped vehicle access off Kimmage Road Lower. Installation of railings installed atop the low wall at the south-east boundary of the site on Kimmage Road Lower).

## **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 nature and scale of the development proposed to be retained, it is considered that, subject to compliance with the conditions set out below, the development proposed to be retained would be acceptable and would not unduly restrict pedestrian and cyclist permeability and would contribute to connectivity through the site and inclusivity of the site to surrounding areas. The development proposed to be retained would not detract from the visual amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Furthermore, having regard to the location of the site through which the River Poddle flows overground and in a culvert, which is in an area identified as Flood Zone A and B, and on the basis of the submissions made in connection with the planning application and the appeal, the Board considers that the development proposed to be retained, subject to compliance with condition number 2 set out below, would provide access to the culvert for the purpose of maintenance and management of flood risk, and would not be prejudicial to public health and public safety and is, therefore, in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission for the retention of gates and railings in Areas A, B and C, the Board considered that, subject to compliance with condition number 3 set out below, the development proposed for retention would not create a perception of a gated community or be detrimental to social integration, would not unduly restrict pedestrian and cyclist permeability, or detract from the visual amenities of the area, and would contribute to connectivity through the site and inclusivity of the site to surrounding areas. The Board further considered that, subject to compliance with condition number 2 set out below, the development proposed for retention would not be contrary to the Planning System and Flood Risk Management Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in November 2009, would not have the potential to increase the risk of flooding of the site and/or of property in the vicinity or be prejudicial to public health and safety. The development proposed for retention would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application.


**Reason:** In the interest of clarity.

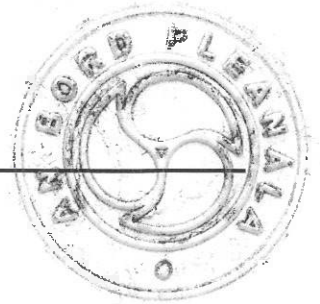
2. Access gate(s) shall be provided for the maintenance of the proposed culvert screen. Details of such access gate(s) shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interests of public health and safety.

3. All pedestrian and vehicular gates proposed for retention shall remain in the fully opened position between the hours of 0600 and 2300 from Monday to Sunday inclusive, to allow open unrestricted access to public open space and permeability through the development.

**Reason:** To accord with the principles of connectivity, permeability and inclusivity of the overall development.

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



Dated this *17<sup>th</sup>* day of *November* 2021.