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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 2800/20**

**Appeal** by Vincent Ryan of 84 Sandymount Avenue, Dublin and by others against the decision made on the 23<sup>rd</sup> day of February, 2021 by Dublin City Council to grant subject to conditions a permission to Klairon Construction Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Planning permission for development on a site at Sandymount Avenue, Sandymount, Dublin. The site is bound to the west and north by the grounds of Enable Ireland Sandymount Centre, to the east by residential properties along Gilford Road and Sandymount Avenue and to the south by Sandymount Avenue.

The proposed development consists of the following:

- demolition of existing wall fronting onto Sandymount Avenue and all associated site clearance,
- the construction of 58 number apartments in a part three to part five storey building over basement,
- the proposed development includes eight number one beds, 48 number two beds and two number three beds,

- balconies and private terraces are provided for all apartments (on the northern, western, southern and eastern elevations of the proposed building),
- communal amenity space is proposed at ground level,
- public open space with an area of 625 square metres is proposed on the southern part of the site fronting onto Sandymount Avenue,
- vehicular access will be provided from Sandymount Avenue into a basement level which will provide a total of 39 number car parking spaces, bin storage, plant rooms and bike storage for 92 number cycle parking spaces, and
- the development includes landscaping, boundary treatment, lighting, and all associated site works including underground foul and storm water drainage network and attenuation areas; all at Sandymount Avenue, Sandymount, Dublin.

## **Decision**

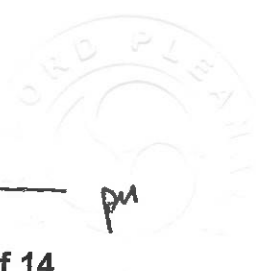
**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **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**

In coming to its decision, the Board had regard to the following



- (a) the National Planning Framework and in particular National Policy Objectives 11, 13 and 35,
- (b) the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” issued by the Department of Housing, Local Government and Heritage (December, 2020),
- (c) the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage (December, 2018) and in particular Specific Planning Policy Requirement 3A,
- (d) the “Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in 2009,
- (e) the “Planning System and Flood Risk Management Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in 2009,
- (f) Section 37(2)(b) of the Planning and Development Act 2000, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan, and
- (g) and the provisions of the Dublin City Development Plan 2016 – 2022,

and considered that, having regard to the nature of development in the area, the site’s central and accessible location and the site’s close proximity to existing public transport links, the proposed development, subject to compliance with the conditions set out below, would represent an acceptable height, density and design for the site, would not seriously injure the amenities of adjoining properties, would not seriously injure the visual amenities, built heritage or character of the area and would be acceptable in terms of pedestrian and traffic safety. The proposed development, would, therefore, be

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in accordance with the proper planning and sustainable development of the area.

The Board considers that the proposed development would materially contravene a requirement of the Z12 zoning objective in terms of the provision of 20% Public Open Space.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dublin City Development Plan 2016-2022 would be justified for the following reasons and considerations:

Permission for the proposed development should be granted having regard to guidelines under section 28, that is, the provisions of section 4.20 and 5.10 (e) of the "Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in 2009 and proximity of other public open spaces to the site.

Furthermore, the Board is satisfied that the proposal would comply with the Z12 zoning objective, as set out in the Development Plan, to "ensure existing environmental amenities are protected in the predominantly residential future use of these lands" whereby 58 number residential apartments, with the provision of a large high quality area of public open space, will provide an accessible area of 'open character' to Sandymount Avenue.

## 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 and dated the 27<sup>th</sup> day of January, 2021, and by the further plans and particulars received by An Bord Pleanála on the 20<sup>th</sup> day of April, 2021,

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 proposed development shall be amended as follows:-
- (a) privacy screens shall be installed along all boundaries of the terrace areas of-
    - Apartment Type 2PA on the fourth floor of Block A.01,
    - Apartment Types 2PD and 2PE on the third floor of Block A.02,
  - (b) a privacy screen shall be installed along the eastern boundary of the balcony to apartment Type 1C on the first floor of Block A.01,
  - (c) all privacy screens shall be a minimum 1.8 metres high and of obscure glass
  - (d) emergency and waste vehicle access to the site shall be facilitated and agreed,
  - (e) 110 cycle parking spaces shall be provided in the basement. Cycle spaces shall be assigned to apartments on the basis of bedrooms numbers. The cycle spaces shall be facilitated through the reduction of car parking provision as required.

Revised plans and particulars showing compliance with these requirements 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 clarity.

3. 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 and foundation layout) 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.

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4. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenity of property in the vicinity and the visual amenity of the area.

5. Details of the materials, colours and textures of all the external materials and 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.

6. A Building Lifecycle Report in accordance with section 6.13 of the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” issued by the Department of Housing, Local Government and Heritage (December, 2020) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of orderly development.

7. (a) Car parking spaces shall be for the use of residents of the development only and as detailed in a Car Parking Management Strategy to be submitted to, and agreed in writing with, the planning authority,
- (b) Car parking spaces shall not be sold, rented or otherwise sub-let or leased,
- (c) A minimum of 10% of all car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces in the multi-storey car park shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Where proposals in this

regard have not been submitted with the application, details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transport.

8. 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 interest of sustainable waste management.

9. 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,
  - (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



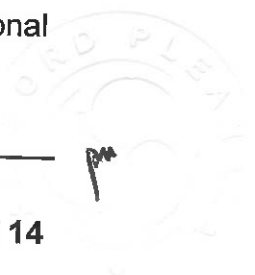
include proposals to facilitate the delivery of abnormal loads to the site,

- (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 public road network,
- (h) 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,
- (i) details of appropriate mitigation measures for noise, dust, excavation and vibration, and monitoring of such levels/works,
- (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, and
- (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.

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.

10. 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 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 amenities of property in the vicinity.

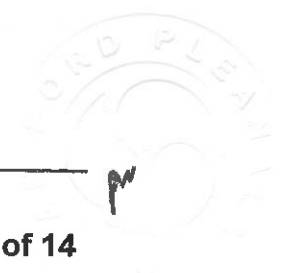
11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

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

12. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the public open space, external fabric of the buildings, all communal open spaces, landscaping, paths, vehicle set down area, the basement car park, public lighting, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority, before any of the residential units are made available for occupation and operation.

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

13. (a) Drainage arrangements shall comply with the requirements of the planning authority for such works and services.
- (b) All flood risk mitigation measures as detailed in the Flood Risk Assessment submitted with the application shall be fully implemented.



- (c) The development shall be constructed to flood resilient standard up to 4m OD.
- (d) The management company shall install, operate and maintain an adequate flood warning system including preparing and regularly updating an emergency plan for all users of the site.

Details of the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public health.

- 14. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

- 15. Proposals for the development name and apartment numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the development name and apartment 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.

- 16. The site (including the area of public open space) shall be landscaped in accordance with a final landscape scheme which shall account for amendments elsewhere in these conditions. Details of the landscaping scheme shall be submitted to, and agreed in writing with, the planning

authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. Landscaping in accordance with the scheme shall be managed and maintained in perpetuity by the legally constituted management company unless otherwise agreed in writing with the planning authority.

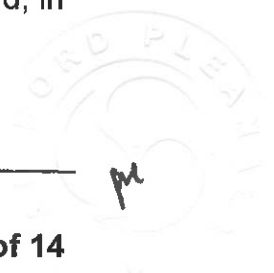
**Reason:** In the interest of residential and visual amenity.

17. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff, users and residents of the development and to reduce and regulate the extent of parking in the area. The mobility strategy shall be prepared and implemented by the management company for the development.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

18. 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 apartment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of 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.

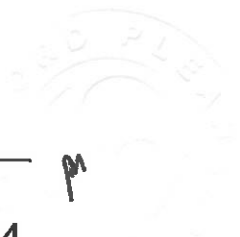


19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 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 for the area.


20. 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.

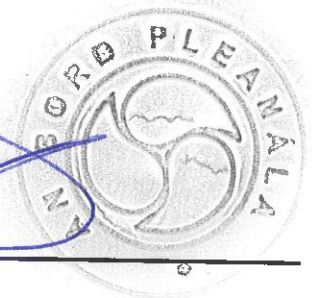
**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.



21. 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 **28<sup>th</sup>** day of **OCTOBER** 2021.