

---

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 4115/21.**

**Appeal** by Charlemont Project Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin against the decision made on the 18<sup>th</sup> day of February, 2022 by Dublin City Council to refuse a permission for the proposed development.

**Proposed Development:** The proposed development will consist of the following:- demolition of the existing buildings on site, with a total combined gross floor area (gross floor area) of 1,739 square metres; construction of a Build-to-Rent (BTR) residential development comprising 97 number BTR apartments with a mix of 48 number one bedroom units and 49 number two bedroom units in three number blocks of part 3, part 4, part 5 and part 6 storeys in height, over basement level, including resident support and amenity facilities. The total gross floor area, including the basement level, of the proposed development is 9,216 square metres; Block A, fronting Milltown Road, comprises 23 number BTR units including nine number one bedroom units and 14 number two bedroom units in a part three, part four and part five-storey building, over a basement level. Block A and Block B will be connected by a bridge link from first to fourth floor levels. Resident support and amenity

P. C.

facilities are proposed at ground floor and basement level of Block A. Balconies are proposed on the north, east and south elevations; Block B adjoins Block A to the east and Block C to the west, comprises 34 number BTR units including 14 number one bedroom units and 20 number two bedroom units, in a part four, part five and part six-storey building, over a basement level. Balconies are proposed on the north and south elevations, and terraces are proposed on the south elevation; Block C adjoins Block B to the east, comprises 40 number BTR units including 25 number one bedroom units and 15 number two bedroom units, in a part four, part five and part six-storey building, over a basement level. Balconies are proposed on the north and south elevations, and terraces are proposed on the south and west elevations; The development includes ancillary resident support and amenity facilities for the BTR residential units with a total floor area of 302 square metres including a co-working area, meeting room, coffee dock, lounge and concierge at ground floor level and a gym, shared kitchen, media room and parcel store at basement level. The proposal includes communal open space and public open space, including improvements to the public realm and a shared space with an entrance plaza/set down area on the existing access road from Milltown Road; the basement level contains 47 number car parking spaces, two number motorcycle spaces and 150 number cycle spaces. The basement level also includes bin storage, cores and plant rooms. The proposal includes 54 number cycle parking spaces (including four number cargo spaces) at surface level, a turning point, a new vehicular access to the basement level from Milltown Road, and associated improvements to Milltown Road (which includes alterations to the existing footpaths/public road, with relocation of the existing pedestrian crossing and bus stop, which are external to the planning application site boundary and subject to agreement with the planning authority); The proposal includes an ESB substation and associated set down area, landscaping, boundary treatment, lighting, PV panels, site services and all associated site works; all at 9/14 and 11C, Milltown Road, Milltown, Dublin. The application site consists of the former Murphy and Gunn

P.C.

site (currently Autovision) and the former Saint Joseph's Junior Education Centre site.

## **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**

Having regard to the residential zoning objective as set out in the Dublin City Development Plan 2022-2028, the national and local policy objectives which support the redevelopment of brownfield/infill sites, the subject site's proximity to public transport, services/amenities and employment sources, the design, layout and scale of the proposed development and the existing and emerging pattern of development in the vicinity, and having regard to the totality of the documentation on file, including the further information response received by An Bord Pleanála on the 16<sup>th</sup> day of February, 2023 and all submissions received during the appeal process, it is considered that, subject to compliance with the conditions set out below, the proposed development would appropriately intensify residential use on this suitably located infill site, would constitute an acceptable height, quantum and density of development in this accessible urban location, would be acceptable in terms of design, height, layout and scale of development, would provide a suitable level of accommodation and amenity for future occupants, would not seriously injure the amenities of the area or of properties in the vicinity, would be acceptable in terms of traffic safety/parking provision and would comply with the provisions of the Dublin City Development Plan 2022-2028, including policy QHSN41 and QHSN42 and associated policies relating to build to rent and

  
P.C.

housing provision generally, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2020 that are applicable having regard to the date of the lodgement of the application and the transitional arrangements that apply to the Sustainable Urban Housing: Design Standards for New Apartments (2022) and to the Urban Development and Building Height Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. (a) 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 received by An Bord Pleanála on the 16<sup>th</sup> day of March, 2022 and the 16<sup>th</sup> day of February, 2023, 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.
- (b) For the avoidance of doubt, the total number of residential units permitted in this development is 74 number units (35 number one bedroom and 39 number two-bedroom units).

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



P.C.

2. The proposed development shall be amended as follows:
- (a) removal of the fourth floor resulting in the omission of 14 number residential units (eight number one bed and six number two bedroom units),
  - (b) the windows associated with apartments to the southwest of Block B-C, from first to third floors, facing west and serving living space, shall be obscure glazed or angled to restrict overlooking,
  - (c) the windows associated with apartments to the southwest corner of Block A from first to third floors, facing south and serving living space, shall be obscure glazed or angled to restrict overlooking, and
  - (d) frosted glazed screens shall be introduced on the west side of the balconies serving apartments, to the northwest corner of Block B -C, at first to third floors facing west.

Revised drawings 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.

3. The development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 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 and in the interest of clarity.

P. C.

4. Prior to the commencement of development, the developer shall submit 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 separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

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

5. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a build-to-rent scheme. Any proposed amendment or deviation from the build-to-rent model, as authorised in this permission, shall be subject to a separate planning application.

**Reason:** In the interests of orderly development and clarity

6. The landscape scheme including the planting plan and boundary treatment shall be updated to reflect the changes required under condition number two above and submitted to the planning authority for agreement in writing. Once agreed, the landscaping shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants that die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

P.C.

7. The development shall be finished in accordance with the material, colour and texture details indicated on the elevational drawings submitted with the application, unless otherwise agreed in writing with the planning authority.

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

8. (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) A map delineating those areas to be taken in charge by the local authority and details of the legally constituted management company contract, and drawings/particulars describing the parts of the development for which the legally constituted management company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential or commercial units are made available for occupation. The management scheme shall provide adequate measures for the future maintenance of public open spaces, roads and communal areas.

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

9. Surface water 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.

10. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

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

11. Proposals for an apartment naming/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. 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.

12. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the 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.

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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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



14. (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 for each apartment unit 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.
- (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.

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.



P.C.

16. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Residential car parking spaces shall not be utilised for any other purpose unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to, and agreed in writing with, the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how car, cycle, motorcycle and car share club parking, as well as turning areas, shall be continually managed.

**Reason:** To ensure that adequate parking facilities and turning areas are permanently available to serve the proposed development.

17. A minimum of 10% of the proposed car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces in the development shall be fitted with ducting for electric connection points to allow for future fitout of charging points. 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.

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. [

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

19. 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 amenities of property in the vicinity and the visual amenities of the area.

20. Prior to commencement of development, the applicant shall submit proposals regarding access via the existing laneway to the basement car park, as per the revised proposal submitted to An Bord Pleanála on the 16<sup>th</sup> day of March 2022, to the planning authority for written agreement. The following shall be agreed:

- (a) details of the junction of the private laneway and Milltown Road and potential physical interventions to the junction to reduce vehicle speeds entering and leaving the laneway,
- (b) provision of a raised pedestrian surface and kerb to provide some level of protection to pedestrians and the building façade from vehicles using the laneway as well as providing some obstacle to vehicles parking on the level pedestrian area and providing some level of traffic calming,
- (c) the location/provision of a set-down area, and
- (d) details of a swept path analysis for a refuse vehicle entering the laneway.

**Reason:** In the interest of pedestrian and traffic safety.

21. 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

P.C.

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.

22. 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.

P.C.

23. 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.

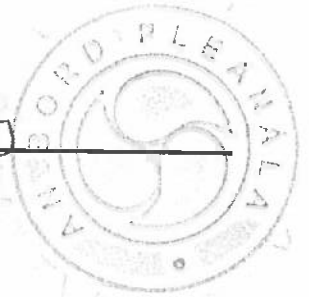
*Patricia Calleary*

**Patricia Calleary**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**



Dated this *26* day of *July*

**2023.**