

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 3420/22

Appeal by Jeremy and Miranda Humphries of 82 Sandymount Avenue, Dublin against the decision made on the 4th day of July, 2022 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: Alterations and extension of the permitted residential development permitted under Register Reference 2800/20 and An Bord Pleanála Reference: 309742/21.

The proposed development comprises the following:

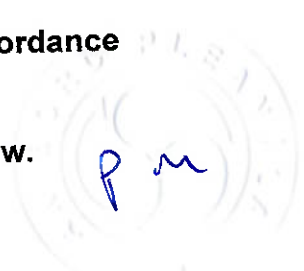
- Alterations, internal reconfiguration, and extension to the permitted residential Block A.02 from ground to third floor level to provide five number additional residential units (two number one beds and three number two beds);
- Provision of a new two-storey residential block, Block A.03, comprising six number apartment units (four number one beds and two number two beds);

- The proposed alterations and additional Block A.03 increase the total number of residential units from 58 to 69 number units. The overall proposed unit mix is 14 number one beds, 53 number two beds and two number three beds;
- The proposed modifications include the addition of a new landscaped courtyard to cater for the additional residential units;
- Minor alterations to the permitted basement layout to provide a total of 130 number cycle spaces;
- No change is proposed to the permitted Block A.01;
- The development includes visitor cycle parking, landscaping, boundary treatment, lighting and all associated site works;
- The proposed development includes an extension of the development boundary of permission Register Reference 2800/20 and An Bord Pleanála Reference: 309742/21, to accommodate the proposed alterations and extension of the permitted residential development;

all 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.

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 zoning objectives applying to the site in the Dublin City Development Plan 2022–2028, the site’s central and accessible location, existing/proposed public transport links serving the area, the pattern of development in the area and the layout of the scheme, it is considered that, subject to compliance with the conditions set out below, the proposed development, would represent an acceptable height, density and design for the site, would be acceptable in terms of 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 traffic and road safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted the commentary of the Inspector regarding the quantity of public open space provision on the overall residential site having regard to the extent of public open space previously permitted under An Bord Pleanála Reference: 309742-24 on the portion of the site zoned Z12 in addition to that proposed under the current scheme.

Having considered the totality of the documents on file, including the reports of the planning authority which concluded that the qualitative provision of public open space is fully in accordance with proper planning and sustainable development and to the commentary of the Inspector that revised public open space is appropriate having regard to its southerly aspect, generous dimensions and frontage to Sandymount Avenue, the Board determined on the basis of the facts on the file, that the quantum and quality of public open space is satisfactory.



The Board specifically considered that having regard to the planning history of the site, and the fact that the proposed residential development is located on the Z1 and Z2 zoned portion of the overall lands and not on the Z12 portion of the site, that no material contravention of the relevant provision of the current development plan arises; and that the shortfall in public open space provision arising from the requirement that 25% public open space be provided on Z12 zoned lands can be adequately addressed by the imposition of an in lieu financial contribution in accordance with the provisions of section 15.8.7 of the Dublin City Development Plan 2022-2028.

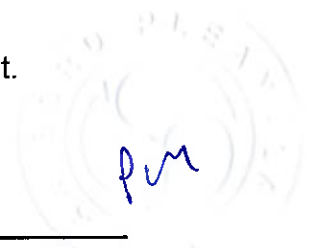
Conditions

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 on the 7th day of June 2022 and by the further plans and particulars received by An Bord Pleanála on the 26th day of August 2022, 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 terms and conditions of the permission for the original development, which was issued under An Bord Pleanála Reference ABP-309742-21 shall be fully complied with, except where modified by this permission.

Reason: To provide for an acceptable standard of development.



3. The proposed development shall be amended as follows:
- (a) The proposed set-down space / loading bay on Sandymount Avenue shall be omitted and the sycamore tree to the front of the site shall be retained, as per the parent permission Register Reference 2800/20 / ABP Reference: ABP-309742-21.
 - (b) The boundary railings to the front of the site shall be entirely located to the south of Block A.01 and the area to the side (east) of Block A.01 incorporated into the communal open space for the development.
 - (c) The internal layouts of the proposed apartments shall be amended so that no individual storage room within an apartment exceed 3.5 square metres.
 - (d) The amount of storage provided to serve one-bed apartments shall be increased to comply with the requirements of 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 2022.

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 interests of pedestrian safety and residential amenity.

4. Car parking spaces Numbers 35 and 37 shall be omitted. The permitted number of car parking spaces is 37.

Reason: In the interest of traffic, cyclist and pedestrian safety, to promote sustainable transportation and to protect residential amenity.

5. The privacy screens, indicated on the drawings submitted by way of further information and accompanying the applicant's appeal response, shall be installed and permanently maintained in place thereafter.

Reason: In the interest of residential amenity.

6. 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.



7. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

8. 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.

pm

9. The developer shall pay to the planning authority a financial contribution in lieu of public open space 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.



Peter Mullan

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

Dated this *8th* day of *March* 2024