



An
Bord
Pleanála

Board Order
ABP-315883-23

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 4578/22

Appeal by Richview Residents Association care of Marion Masterson of 21 Temple Gardens, Rathmines, Dublin, by Westridge Milltown Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin, and by Others against the decision made on the 27th day of January, 2023 by Dublin City Council to grant subject to conditions a permission to Westridge Milltown Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: Build to Rent residential development consisting of the following:

- Demolition of the existing building (comprising the residential dwelling known as 'Dunelm') and structures on site;
- Construction of a Build-to-Rent (BTR) residential development, comprising 63 number BTR apartments with a mix of five number studio units, 27 number one bed units, 30 number two bed units and one number three bed unit in two number blocks (Block A and Block B), including resident support and amenity facilities;

- Block A, to the south of the site, comprises 55 number BTR units, including one number studio, 27 number one bed units, 26 number two bed units and one number three bed units, in a part four to part six storey, over lower ground floor and basement level building (maximum of eight levels to Milltown Road). Resident support and amenity facilities are proposed at basement, ground and fifth floor level. Balconies are proposed on the north-west, south-west, south-east and north-west elevations;
- Block B, to the north-west of the site, comprises eight number BTR units, including four number studio units and four number two bed units, in a four storey building. Balconies are proposed on the south, east and north elevations. Block A and Block B will be connected by a bridge link at first to third floor level;
- The development includes ancillary resident support and amenity facilities for the BTR residential units, with a total floor area of 252.5 square metres, including a large item storage area and a bike and bin store at basement level, concierge/management area and foyer area at ground floor level and lounge/residential function room at fifth floor level all within Block A and a pavilion communal amenity building to the north of Block A;
- The proposal includes communal open space at ground level and a communal roof terrace at fifth floor level of Block A;
- The basement level (Block A) contains 10 number car parking spaces, one number motorcycle space, six number e-scooter spaces and 98 number cycle spaces (including two number cargo spaces). The basement level also includes bin storage, a storage room for apartments and cores. A generator room, sprinkler tank room and water storage tank room are proposed at lower ground floor level;

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- The proposal includes 32 number cycle parking spaces and two number car parking spaces at surface level, accessed from the existing access road and a new vehicular access to the basement level from Milltown Road;
- The proposal includes associated public realm works to Milltown Road, including alterations to the existing footpaths/public road, a new signalised junction incorporating advanced cycle stacking lanes in the westbound direction, set back of the existing road median, provision of a new signalised pedestrian crossing of Milltown Road, provision of an uncontrolled pedestrian crossing of the development access junction and associated signals, tactile paving and road markings,
- The proposal includes an ESB substation and associated set down area, landscaping, boundary treatment, PV panels, green roofs and a plant enclosure at roof level, site services and all associated site works necessary to facilitate the development,

all on lands at 'Dunelm', Rydalmount, Milltown Road, Dublin. The site is located to the east of the Green Luas line, to the south of residential dwellings at numbers 1 and 2 Rydalmount and east of the residential dwelling known as 'Kadiv'.

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:

- (a) the location of the site on lands zoned 'Z1' where Build to Rent residential is 'open for consideration', and to the policies and provisions set out in respect of Build to Rent residential development in the Dublin City Development Plan 2022-2028,
- (b) the nature, scale and design of the proposed development and the availability in the area of infrastructure to facilitate the development of the site,
- (c) the pattern of existing and permitted development in the area,
- (d) the provisions of Housing for All – A New Housing Plan for Ireland, 2021,
- (e) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018,
- (f) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government,
- (g) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020,
- (h) the Urban Development and Building Heights Guidelines for Planning Authorities 2018,

- (i) The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009,
- (j) the grounds of appeal and observations received and responses to same, and
- (k) the report of the Planning Inspector,

it is considered that, subject to compliance with the conditions set out below the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development, would provide an acceptable level of amenity for future residents and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment located in a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions and observations on file, the information and reports submitted as part of the subject application, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any

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European Site in view of the Conservation Objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an Environmental Impact Assessment Screening exercise of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the first party appellant, which contains information set out in Schedule 7A of the Planning and Development Regulations 2001, amended, identified and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the proposed residential units on lands zoned within the Dublin City Development Plan 2022-2028 as 'Z1 - Sustainable Residential Neighbourhoods' with a stated objective 'to protect, provide and improve residential amenities', and the results of the Strategic Environmental Assessment of the development plan,
- the nature of the existing site and the pattern of development in the surrounding area,
- the availability of mains water and wastewater services to serve the proposed development,

- the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as amended,
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003),
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and
- the features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the project Construction and Demolition Waste Management Plan, the Outline Construction and Environmental Management Plan, Demolition Method Statement, the Conservation Assessment and the Engineering Services Report,

the Board, in completing the screening exercise, agreed with and adopted the report of the Planning Inspector in that, it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further information submitted on the 22nd day of December 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, or as otherwise stipulated by conditions hereunder, 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:
 - This permission relates to a total of 54 number units only.
 - Apartment Unit A05 58 from the proposed fifth floor of Block A shall be omitted.
 - Block B shall be omitted from the scheme in its entirety and a revised landscaping scheme which incorporates these lands into the communal open space shall be submitted for the written agreement of the planning authority prior to commencement of development.

Reason: In the interest of the proper planning and sustainable development of the area and in the interest of visual amenity.

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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, (December 2020) 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.

4. Prior to commencement of development, the developer shall submit, for the written consent of 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 separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme. This covenant or legal agreement shall also highlight the reduced level of car parking available to future residents.

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 owner shall submit for the written agreement of the planning authority, 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. (a) Prior to commencement of any work on site, the developer:
- (i) shall engage the services of an independent, qualified arborist, for the entire period of construction activity,
 - (ii) shall inform the planning authority in writing of the appointment and name of the consultant. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the revised tree reports and plans, once agreed,
 - (iii) shall ensure the protection of trees to be retained,
 - (iv) shall submit photographs and confirmation that fencing for retained trees meets BS5837:2012 "Trees in Relation to Design, Demolition and Construction – Recommendations" for the written agreement of the planning authority,
 - (v) shall ensure that all works on retained trees comply with proper arboricultural techniques conforming to BS 3998:2010 Tree Work – Recommendations. To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development, and
 - (vi) shall ensure that the clearance of any vegetation including trees and scrub is carried out outside the bird-breeding season (1st day of March to the 31st day of August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000.

- (b) The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees.
- (c) A completion certificate shall be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report.
- (d) The certificate shall be submitted to the planning authority for written agreement upon completion of the works.

Reason: To ensure the retention, protection and sustainability of trees during and after construction of the permitted development.

7. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

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8. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

9. 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 signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names 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 place names for new residential areas.

10. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any apartments. The lighting scheme shall form an integral part of landscaping of the site.

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Reason: In the interests of public safety and amenity, to prevent light pollution.

11. 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

12. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts, or other external plant other than those shown on the drawings hereby approved, unless authorised by a prior grant of planning permission.

Reason: To safeguard the amenities of surrounding occupiers and the visual amenities of the area in general.

13. The construction of the development shall be managed in accordance with a Construction Management Plan and Environmental Management Construction 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 and dust management measures, traffic management arrangements/ measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety.

14. 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. The plan shall specifically address the points raised within the submission by Transport Infrastructure Ireland to the planning authority.

Reason: In the interest of sustainable waste management.

15. Drainage arrangements including the updates to the Site Specific Flood Risk Assessment, attenuation and disposal of surface water, shall comply with the requirements of the planning authority.

Reason: In the interest of public health and surface water management.

16. Prior to commencement of any work on site, the developer:

- (i) shall submit the final traffic signal infrastructure design drawings for the Milltown Road and the site access junction to the planning authority for written agreement. The signalisation shall be in accordance with Dublin City Council standards and to the specifications of Dublin City Council ITS. A Road Safety Audit shall

be provided as part of the submission. The works shall be at the applicant/developer's expense.

- (ii) shall submit to the planning authority for written agreement details of emergency vehicle access arrangements for the development.
- (iii) Prior to commencement of development, the applicant/developer shall submit an Operational Waste Management Plan to the planning authority for written agreement. The plan shall outline how the management of operational waste for the development is to be undertaken in accordance with the current legal and industry standards, and shall include waste collection procedures including refuse vehicle access arrangements. The management company for the development shall be responsible for the implementation of the plan.
- (iv) Details of the materials proposed in public areas, and areas proposed to be taken in charge, are required and shall be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council and agreed in detail with the planning authority.
- (v) Prior to commencement of development, and on appointment of a main contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise and dust management measures and off-site disposal of construction/demolition waste. The Construction Management Plan shall specifically address the points raised within the submission by TII. The applicant shall liaise with TII and Dublin City Council during the construction period.



- (vi) Car parking spaces shall be permanently allocated to the proposed use and shall not be sold, rented or otherwise sub-let or leased to other parties. Six number spaces shall be allocated to car share. 50% of spaces shall be fitted with EV charging equipment and all remaining spaces shall be ducted to facilitated future installation of EV charging equipment.
- (vii) Prior to completion and occupation of the development, a Parking Management Plan shall be submitted to the planning authority for the written agreement which shall indicate how spaces will be assigned and segregated by use and how use of the car parking will be continually managed.
- (viii) Long Term resident cycle parking to Dublin City Development Plan 2022-2028 standards shall be provided. All resident spaces including cargo bike spaces shall be secure, conveniently located, sheltered and well lit. Electric bike charging facilities shall be provided. Key/fob access should be required to bicycle compounds. Visitor cycle parking design shall allow both wheel and frame to be locked.
- (ix) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of development, shall be at the expense of the developer.
- (x) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

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

17. The developer shall liaise with Transport Infrastructure Ireland and appropriate agreements between TII, Luas Operator and the developer shall be undertaken and completed prior to commencement of development regarding the construction and operation of the proposed development which is located in close proximity to a Luas Line.

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

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

Reason: In the interest of public health.

19. 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 residential amenities of property in the vicinity.

20. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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.

21. 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.

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

22. 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.

23. 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.

24. The developer shall pay to the planning authority a financial contribution in respect of Luns Cross City in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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.

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Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.



Una Crosse

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

Dated this 18 day of January 2024.

DECISION QUASHED

DECISION QUASHED