

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: LRD6018/22-S3

Appeal by Kimmage Dublin Residents Alliance (KDRA) CLG care of Marston Planning Consultancy of 23 Grange Park, Foxrock, Dublin and by Elizabeth O'Callaghan of 33 Brookfield Green, Kimmage, Dublin against the decision made on the 7th day of March, 2023 by Dublin City Council to grant subject to conditions a permission to 1 Terenure Land Limited care of McGill Planning Limited of 22 Wicklow Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of 208 number social and affordable housing units (104 number one bed and 104 number two bed apartments) with five number blocks (with blocks four and five linked throughout), ranging in height up to six storeys. Block one will range in height from four to six-storeys and will provide 46 number units. Block two will range in height from four to six-storeys and will provide 48 number units. Block three will range in height from four to six-storeys and will provide 46 number units. Blocks four and five will be linked. Block four will range in height from four to five storeys and will provide 38 number units while Block five will be five-storeys in height and will provide 30 number units. All residential units have associated private

balconies/terraces to the north/south/east/west elevations. The proposal will also include provision of 100 number car parking, 484 number cycle parking and six number motorcycle spaces located at undercroft and surface level. Vehicular/pedestrian/cyclist access is provided off Kimmage Road West via the existing Ben Dunne Gym access route. All associated site development works, public open spaces, podium and ground level communal open space, landscaping, boundary treatments, plant and waste management areas and services provision (including ESB substations) will be provided. Upgrades to the Irish Water network along Kimmage Road West are also accommodated. The site is accessed from Kimmage Road West. It is located to the north and east of Ben Dunne Gym, south of Captain's Road, west of Brookfield Green and east of Park Crescent all at "Carlisle", Kimmage Road West, Terenure, 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.

Reasons and Considerations

In arriving at its decision, the Board had regard to the following:

- (i) the provisions and policies of the Dublin City Development Plan 2022 - 2028,
- (ii) the zoning objective Z1 – 'Sustainable Residential Neighbourhoods', which seeks 'To protect, provide and improve residential amenities',

- (iii) Housing for All - A New Housing Plan for Ireland, issued by the Department of Housing, Local Government and Heritage, 2021, and Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (iv) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, and the accompanying Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (v) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of the Housing, Local Government and Heritage in December 2022,
- (vi) the Urban Development and Building Heights - Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018,
- (vii) the availability in the area of a wide range of social and transport infrastructure,
- (viii) the pattern of existing and permitted development in the area,
- (ix) the submissions and observations received, and
- (x) the Inspector’s Report.

The Board 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 and would be acceptable in terms of traffic and pedestrian safety and convenience. The

proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment (AA)

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 which comprises a site in an established urban area, the distances to the nearest European site, and the hydrological pathway considerations, the submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening Report documentation and the Inspector's report.

In completing the screening exercise, the Board agreed with and adopted the report of the 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 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 (EIA)

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out in Schedule 7A to the Planning and Development Regulations, 2001, as amended, identifies 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 Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands governed by zoning objective Z1, 'To protect, provide and improve residential amenities' in the Dublin City Development Plan 2022 - 2028, and the results of the strategic environmental assessment of the Dublin City Development Plan undertaken in accordance with the SEA Directive (2001/42/EC),
- the existing use on the site and pattern of development in the surrounding area,
- the planning history relating to the site,
- the availability of mains water and wastewater services to serve the proposed development,
- 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 envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Demolition Management Plan,

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.

Conclusions on Proper Planning and Sustainable Development

The Board considered the totality of the file including the Inspector's assessment. The Board had particular regard to The Dublin City Development Plan 2022-28, Appendix 3 Achieving Sustainable Compact Growth Policy for Density and Building Height in the City, Section 3, Understanding Height and Density – the Strategic Approach and Section 4 The Compact City – How to Achieve Sustainable Height and Density?. The Board considered the planning authority's assessment of the scheme against the Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale (Table 3, of Appendix 3), the Board concurred with the planning authority's assessment and although the planning authority referred only to height in its conclusion, the Board concluded based on the assessment that the scheme as proposed complies with the performance criteria for enhanced height, density, and scale.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, 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, as well as in terms of traffic and pedestrian safety and convenience. The proposed development, subject to conditions, would provide an acceptable form of residential amenity for future occupants.

The Board considered that the proposed development is compliant with the Dublin City Development Plan 2022 - 2028, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 information received by the planning authority on the 9th 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.

Reason: In the interest of clarity.

2. (a) All elevations shall be finished in brick or similar material but shall not include the use of self-coloured or coloured render.
- (b) Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

4. 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.

5. 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.

6. The developer shall comply with the following transport requirements:
 - (a) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority revised plans detailing changes to the existing junction between the private access road and Kimmage Road West. The updated plan drawing shall detail changes to the existing mouth of the junction to improve the pedestrian environment including the reduction of the width and

radii of the junction to a maximum of two traffic lanes, one in-bound and one out-bound. All works to the public road shall be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council and be at the developers own expense. All works shall be fully implemented prior to completion and occupation of the development.

- (b) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a revised drawing detailing a maximum width of 5.5 metres for the internal road network as well as corresponding increased depth of the perpendicular car parking spaces to facilitate vehicle manoeuvrability as per DMURS.
- (c) Footpaths along the access road shall be continued at a raised level across existing vehicular entrances and dished as necessary in order to emphasis pedestrian priority. Traffic calming measures on the access road shall be designed not to impact negatively on cyclists. Measures shall be implemented, including contrasting materials, signing, and road marking, to ensure that vehicles entering/leaving the existing development are aware that pedestrians/cyclists have priority across the site entrance and that vehicles must yield right-of-way.
- (d)
 - (a) Car parking spaces shall be permanently allocated to residential use and shall not be sold, rented or otherwise sub-let or leased to other parties.
 - (b) Three number car parking space within the development shall be permanently allocated to Car Club use.

- (c) All car parking spaces within the development including on-street spaces shall be ducted to facilitate future cabling to serve charging points for Electric Vehicles. Electric charging points for 50% of car parking spaces including the three number car share spaces shall be provided.
- (d) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and submitted to and agreed in writing with the planning authority.
- (e) The developer shall undertake to implement the measures outlined in the Residential Travel Plan to ensure that future tenants of the proposed development comply with this plan. A Mobility Manager for the overall scheme shall be appointed to oversee and co-ordinate the preparation of individual plans.
- (f) A minimum of 484 number cycle parking spaces, including 352 number resident cycle parking spaces (including 16 number cargo bike spaces) and 132 number visitor/short-stay parking spaces shall be provided. Resident cycle parking spaces shall be secure, conveniently located, sheltered and well lit. Key/fob access should be required to resident bicycle compounds. All cycle parking design including visitor parking shall allow both wheel and frame to be locked. Electric bike charging facilities within the resident cycle parking areas shall be provided. All cycle parking shall be in situ prior to the occupation of the development.

- (g) Prior to commencement of development, a revised street lighting design which incorporates the existing private access road shall be submitted to the planning authority for written agreement. All works shall be fully implemented prior to completion and occupation of the development and shall be at the developers own expense.

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

- 7. The following drainage requirements shall be complied with:
 - (a) The developer is required to comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from www.dublincity.ie Forms and Downloads).
 - (b) The development shall incorporate Sustainable Drainage Systems in the management of surface water. Full details of these shall be agreed in writing with planning authority prior to commencement of construction.
 - (c) All surface water discharge from this development shall be attenuated to a maximum of two litres per second (per hectare) in accordance Greater Dublin Regional Code of Practice for Drainage Works Version 6.0, unless otherwise agreed in writing with the planning authority.
 - (d) The outfall surface water manhole and the outfall pipe from this development shall be constructed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.

- (e) The development shall be drained on separate foul and surface water systems with surface water discharging to the public surface water network.
- (f) All private drainage such as, downpipes, gullies, manholes, Armstrong junctions, shall be located within the final site boundary. Private drains should not pass through property they do not serve.

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

- 8. The developer shall enter into water and wastewater connection agreement(s) with Uisce Eireann, prior to commencement of development.

Reason: In the interest of public health.

- 9. The developer will retain the professional services of a qualified Landscape Architect as a Landscape Consultant throughout the life of the site development works. The landscape scheme accompanying the application as amended below with the written agreement of the planning authority, shall be implemented fully in the first planting season following completion of the development or completion of any phase of the development, and any vegetation which dies or is removed within three years of planting shall be replaced in the first planting season thereafter. When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, he/she will submit a Landscape Completion Report to the planning authority for written agreement, as verification that the approved landscape plans and specification have been fully implemented and for bond release.

The landscape scheme will include:

- (a) the inclusion of active recreational elements, and
- (b) the inclusion of play space for younger children.

The landscape scheme shall have regard to the Guidelines for Open Space Development and Taking in Charge, copies of which are available from the Parks and Landscape Services Division.

Reason: In the interest of the sustainable development of the area.

10. (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.

11. 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 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.

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.

12. (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 not later than six months from the date of commencement of the 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.

13. Prior to 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.

14. 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 and vibration, and monitoring of such levels;
- (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;
- (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.
- (m) 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.

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 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.

16. 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.

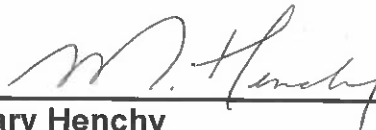
Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

17. 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, 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 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.

18. 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.

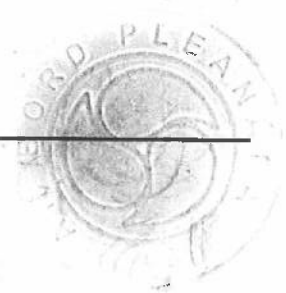


Mary Henchy

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.



Dated this 19th day of July 2023.