



An  
Bord  
Pleanála

**Board Order**  
**ABP-317668-23**

---

**Planning and Development Acts 2000 to 2022**

**Planning Authority: South Dublin County Council**

**Planning Register Reference Number: LRD23A/0003**

**Appeal** by Dermot Keogh of 11 Oakcourt Grove, Palmerstown, Dublin and by Others against the decision made on the 3<sup>rd</sup> day of July, 2023 by South Dublin County Council to grant subject to conditions a permission to AAI Palmerstown Limited of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Demolition of an existing warehouse/factory building and construction of a residential development of 127 number apartments with supporting tenant amenity facilities (gym and activity areas, lounges and meeting rooms), employment uses comprising three number incubator units, building management facilities and all ancillary site development works. The proposed development includes 55 number one-bedroom apartments, 41 number two-bedroom apartments and 31 number three-bedroom apartments to be provided as follows: Building A (25 number one-bedroom, 13 number two-bedroom and 11 number three-bedroom over five to eight storeys), Building B (nine number one-bedroom and eight number two-bedroom over three to four storeys), Building C (eight number one-

UC

bedroom, 10 number two-bedroom and 13 number three-bedroom over five storeys), Building D (13 number one-bedroom, 10 number two-bedroom and seven number three-bedroom over four to five storeys). Vehicular access to the proposed development will be provided via an entrance from the existing estate road as accessed from Kennelsfort Road Upper. The proposal includes improvement works on the northern side of the junction at the estate road/Kennelsfort Road Upper, new pedestrian/cycle paths on Kennelsfort Road Upper and on the estate road to the south of the site, and provision of a controlled pedestrian crossing on Kennelsfort Road Upper to the west as part of enabling infrastructure. The proposed development provides for outdoor amenity areas, landscaping, external podium lift, under-podium and street car parking, bicycle parking, bin stores, ESB substation, public lighting, roof mounted solar panels and all ancillary site development works all at Units 64 and 65, Cherry Orchard Industrial Estate and Kennelsfort Road Upper, Palmerstown, 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 coming to its decision, the Board had regard to the following:

- (a) the 'REGEN' zoning objective pertaining on the site as set out in the South Dublin County Development Plan 2022-2028, where the objective is "to facilitate enterprise and/or residential led regeneration subject to a development framework or plan for the area incorporating phasing and infrastructure delivery" which aims to protect and/or improve residential amenity,
- (b) the nature, scale and design of the proposed development, which is in accordance with the policies and objectives of the South Dublin County Development Plan 2022-2028,
- (c) the brownfield nature of the site and extensive footprint of building on same, the location of the site addressing two roadways, the availability of adequate social and physical infrastructure in the area, the provision of public open space in the wider area and the accessibility of the site to existing public transport,
- (d) the provisions of Housing for All – A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage in September 2021,
- (e) the provisions of Project Ireland 2040 - National Planning Framework, which identifies the importance of compact growth,
- (f) the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018,

- (g) the provisions 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,
- (h) the provisions of Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) issued by the Department of Environment, Heritage and Local Government in May 2009,
- (i) the provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019,
- (j) the provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure,
- (k) the provisions of the Greater Dublin Area Transport Strategy 2022-2042 prepared by the National Transport Authority,
- (l) the Climate Action Plan 2023 prepared by the Government of Ireland,
- (m) the submissions and observations received, and
- (n) the report of the Planning Inspector,

and 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 be an appropriate form of development on this brownfield site, and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the relevant provisions of the South Dublin County Development Plan 2022-2028 and 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, which comprises a brownfield site 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 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 Screening**

The Board completed an Environmental Impact Assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents and drawings submitted by the applicant identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands that are zoned REGEN which provides for residential use under the provisions of the South Dublin County Development Plan 2022-2028 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),
- (c) the location of this brownfield site in an area served by public infrastructure and the existing pattern of development in the vicinity,
- (d) the location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended, and the absence of any potential impacts on such locations,

- (e) 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),
- (f) the criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended,
- (g) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and
- (h) 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 Outline Waste and Construction Management Plan, the Ecological Impact Assessment, the Traffic Impact Assessment, the Microclimate Report, the Air Quality Analysis Report, the Energy and Climate Impact Analysis Report and the Noise Impact Assessment Report,

the Board concluded that, by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that the preparation of an environmental impact assessment report would not, therefore, be required in this case.

## **Conclusions on Proper Planning and Sustainable Development:**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the zoning objective and other policies and objectives of the South Dublin County Development Plan 2022-2028, would constitute an acceptable quantum of development at this location on this brownfield site which has an extensive footprint of development thereon adjoining two wide roadways, which would be served by an appropriate level of public transport, social and community infrastructure, would provide an acceptable form of residential amenity for future occupants, would constitute an acceptable level of density in this location given its zoning and accessible urban location on serviced lands, would provide appropriate public open space, 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 scale of development, would be acceptable in terms of pedestrian and traffic safety, would not result in any unacceptable ecological or biodiversity impacts, and would be capable of being adequately served by wastewater and water supply networks. The proposed development 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, 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:
  - (a) The location of the relocated bus stop to facilitate the provision of the pedestrian crossing on Kennelsfort Road shall be finalised in consultation with the National Transport Authority and agreed in writing with the planning authority.
  - (b) Provision shall be made for pedestrian facilities linking the existing public footpath on Kennelsfort Road at the front of the site on both sides of the Cherry Orchard Industrial Estate Road.
  - (c) Provision of appropriate tie-ins between existing and proposed cycle routes and footpaths including details in respect of paving, signage and road markings.

- (d) Revised design provision for adequate tactile paving on the footpath and cycle path on approach to the development access junction.
- (e) Within six months of the opening of the proposed development, a Mobility Management Plan shall be completed and submitted to the planning authority.

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 orderly development.

- 3. Details of the materials, colours and textures of all the external finishes to the proposed building 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.

- 4. 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.

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

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

6. 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.

7. A minimum of 10% of all car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development. The car parking spaces for sole use of the car sharing club shall also be provided with functioning EV charging stations/points.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

8. The level of communal bicycle parking spaces specified (298) spaces shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted with this application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

9. (a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- (b) Full details of surface water drainage proposals, including a SuDS strategy for the site and a Site Layout and Drainage Plan and a management and maintenance plan, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

10. 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.

11. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

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

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

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

15. (a) 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 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 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.

16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 0800 to 1400 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.

17. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.



18. 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 Act 2000, as amended, and of the housing strategy in the development plan of the area.

19. 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.

20. 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.



---

**Una Crosse**

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

Dated this *13<sup>th</sup>* day of *November* 2023.