

An
Coimisiún
Pleanála

Commission Order
ABP-320792-24

Planning and Development Act 2000, as amended

Planning Authority: Dublin City Council

Planning Register Reference Number: 3902/24

APPEAL by Newcourt Retirement Fund Managers Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin against the decision made on the 15th day of August 2024, by Dublin City Council to refuse permission for the proposed development.

Proposed Development: The development will consist of: (i) demolition of existing three-storey commercial building; (ii) construction of a mixed-use development comprising two number blocks, each with partial sedum roof and four number rooflights, (Block A is three-storey over basement with set-back third floor level and Block B is three storey over basement level with set-back fourth/fifth floor levels) which together accommodate 25 number residential apartments (seven number studio, 10 number one bedroom and eight number two-bedroom - each served by private balcony/courtyard) and one number commercial unit (77 square metres); (iii) provision of refuse store, loading bay, storage lockers (26 number), vehicular parking spaces (two number), bicycle parking spaces (49 number) and bicycle servicing area at street/basement level; (iv) provision of communal amenity space (219 square metres) and general planting at ground floor level; and, (v) all ancillary works inclusive of boundary treatments, visitor bicycle parking spaces (eight number planting

and SuDS, necessary to facilitate the development all at 45-47 Fairview Avenue Lower, Fairview, Dublin.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

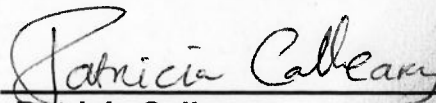
Reasons and Considerations

1. The net density of both the proposed development of 25 apartments as applied for on the subject site zoned Z4 and the revised proposal of 21 apartments, as included with the appeal, in the Urban Village of Fairview is 299.76 density per hectare (net) and 251.79 density per hectare (net) respectively. Such densities would constitute material contravention of Appendix 3 of the Dublin City Development Plan 2022-2028 and would be contrary to Table 3.1 and Section 3.4 of the Sustainable and Compact Settlements Guidelines for Planning Authorities (2024). As such the proposed development would constitute overdevelopment on a constrained urban site and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development by reason of scale, massing and positioning, would seriously injure the residential amenities of existing properties in the area through overbearance and overlooking impacts, particularly in relation to properties at numbers 36 and 37 Merville Avenue and numbers 5, 6, 7 and 8 Fairview Avenue Lower, and would negatively impact on the visual character of the area. Furthermore, the future residential amenity of occupants would be negatively impacted due to inadequate separation distances between Block A rear windows and the

western facing balconies of Block B which would result in overlooking impacts between the blocks leading to a loss of privacy.

3. The proposed development fails to demonstrate compliance with communal amenity space requirements as set out in Section 15.9.8 of the Dublin City Development Plan 2022 – 2028 by reason of poor-quality layout which would provide poor levels of amenity for future residents. The revised details submitted in support of the first party appeal which provides for roof top communal open space would give rise to a loss of adjoining residential amenity through overlooking impacts with a consequential loss of privacy.

The commission disagreed with the inspector's recommendation that the proposed development fails to comply with Policy CCUV23 on the basis that the gym use provides an acceptable active use at street level in the commissions view. Accordingly, the commission did not attach the inspector's recommended reason number 4.



Patricia Calleary

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**



Dated this 22 day of December 2025.