

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2010

Dublin City

Planning Register Reference Number: 3373/10

An Bord Pleanála Reference Number: PL 29S.237865

APPEAL by An Taisce of The Tailor's Hall, Back Lane, Dublin against the decision made on the 4th day of October, 2010 by Dublin City Council to grant subject to conditions a permission to Temple Duke Limited care of Reddy Associates of Dartry Mills, Dartry, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: The development will consist of circa 3,001 square metres of gross floor space (including retained basement level) and comprise as follows:- (1) demolition of all existing structures known as the Creation Arcade fronting Duke Street, Lemon Street and Duke Lane save for existing basement which is to be retained and replacement thereof with a new three-storey and part four and five-storey building over basement level comprising retail floor space at ground, first and second floor level with ancillary restaurant/café at third and associated toilet facilities at fourth floor level, integration of the proposed building with the retained and internally reconfigured building known as numbers 21 to 23 Grafton Street; (2) retention of the existing four-storey over basement level building known as numbers 21 to 23 Grafton Street together with internal and external alterations and the integration of the refurbished building with the proposed new Creation Arcade building to the rear to provide an integrated multi-storey large scale open retail floor space arranged over basement to second floor level, with a new setback roof extension at third and fourth floor levels to provide restaurant/café use and associated roof terraces at third floor level with ancillary restroom facilities above at fourth floor level, internal alterations include the demolition and part retention of internal walls to numbers 21 to 23 Grafton Street at basement to third floor level together with the construction of two new internal stairs extending from basement to third floor and basement to fourth floor, reconfiguration of internal floor levels above ground floor level within the retained structure, external alterations include the demolition of the

existing ground and part first floor shopfronts/façades along Grafton Street and Duke Street and replacement thereof with new integrated ground and part first floor stone façade and replacement windows together with new main ground floor double access floors on the corner of Grafton Street and Duke Street and new double access doors to number 23 Grafton Street. The proposed development comprises an overall total gross floor area of 3,001 square metres, comprising 311 square metres of retained basement floor space (retail use), 98 square metres of new basement area (retail use), 2,057 square metres ground to second floor (retail use), and 468 square metres third floor (ancillary restaurant/café use) and 67 square metres fourth floor (W/C and restroom facilities); all at site measuring approximately 900 square metres located at number 21 to 23 Grafton Street and including the Creation Arcade, Dublin. The site fronts Grafton Street (west), Duke Street (north), Lemon Street (south) and Duke Lane (east), respectively. The subject site adjoins 24 Duke Street to the east, west and south, 20 and 21 Duke Street to the east and 25 and 24 Grafton Street to the south, all of which are Protected Structures.

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.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the:

- (a) Dublin City Development Plan 2011-2017,
- (b) Special Planning Control Scheme for Grafton Street and Environs, and
- (c) “Architectural Heritage Protection Guidelines for Planning Authorities” issued by the Department of the Environment Heritage and Local Government in 2004,

and to the nature, form, scale and design of the proposed development, and to the character of the existing development on the site and adjoining, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the character of the Protected Structures in the vicinity and would not seriously injure the visual amenities of the Architectural Conservation Area. 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 and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The memorial plaque attached to the Duke Street façade of numbers 21-22 Grafton Street which records the foundation of Burton's shop shall be retained.

Reason: In the interest of preserving the heritage of the area.

3. The proposed development shall be amended as follows:
 - (a) the proposed third and fourth floor roof developments shall be omitted in their entirety, as proposed, and the proposed fourth floor sanitary accommodation, as shown on drawing number 3.1.110 shall be accommodated in exactly the same position on plan but at third floor level. The ridge line of the roof of the accommodation shall not exceed 25,76 and all plant except the proposed lift tower shall be accommodated within this envelope.
 - (b) the historic roof profile over 23 Grafton Street shall be re-instated,
 - (c) the proposed basement excavations to the rear of Duke Street shall be omitted in their entirety.

Revised plans and particulars showing compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the visual amenities of Grafton Street Architectural Conservation Area and to protect the character and setting of adjoining Protected Structures and Protected Structures in the vicinity.

4. Prior to the commencement of works, the developer shall make a record of the existing protected structure. This record shall include:
- (a) a full set of survey drawings to a scale of not less than [1:50] to include elevations, plans and section of the structure, and
 - (b) a detailed, labelled photographic survey of all internal rooms (including all important fixtures and fittings), the exterior and the curtilage of the building.

This record shall be submitted to the planning authority prior to the commencement of development and one copy of this record and a full set of drawings of the proposed works to the protected structure shall be submitted to the Irish Architectural Archive.

Reason: In order to establish a record of this protected structure.

5. (a) Details of materials, colours and textures of all external finishes shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. A panel of the proposed finishes shall be placed on site to enable the planning authority adjudicate on the proposals.
- (b) Full details in relation to lighting and signage shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.
- (c) Details of the proposed works to 23 Grafton Street in relation to the full extent of the refurbishment/demolition works, proposed external finishes and materials, internal depth and plan for all openings shall be submitted.

Reason: In the interest of visual amenity and to protect the character of the Architectural Conservation Area.

6. The developer shall submit all details in relation to the shopfront, including signage design and materials, trading name, means of illumination and security devices, for the written agreement of the planning authority prior to the occupation of the units.

Reason: In the interest of visual amenity and to protect the Architectural Conservation Area.

7. A window display shall be maintained at all times, and the glazing to the shopfront shall be kept free of stickers, posters and advertisements.

Reason: In the interest of visual amenity and to protect the Architectural Conservation Area.

8. No additional development shall take place above roof parapet level, except the ancillary accommodation, including lift motor enclosures, as conditioned in 3(a) above, that is no additional air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and to protect the character of the Architectural Conservation Area.

9. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

10. The premises shall be used as a shop for the retail sale of goods and for no other classes of use as set out in the Part 2 or Part 4 of Schedule 2 to the Planning and Development Regulations, 2001 without a prior grant of planning permission. The premises shall not be used as a shop for the sale of hot/cold food for consumption off the premises, even where the sale of such food is subsidiary to the main retail use, or for restaurant use.

Reason: In the interest of clarity and to protect the amenities of the area.

11. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0700 and 1400 on Saturdays and not at all on Sundays, Bank or 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 amenities of property in the vicinity.

12. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried out on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the amenities of property in the vicinity.

13. Noise monitoring locations for the purposes of the construction phase of the proposed development shall be agreed in writing with the planning authority prior to commencement of development.

Reason: To protect the amenities of property in the vicinity.

14. Details of service and delivery arrangements shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: In the interest of orderly development and traffic and pedestrian safety.

15. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

16. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

17. The developer shall submit a Construction and Demolition Plan for the written agreement of the planning authority prior to commencement of development which demonstrates how the development will be constructed without impacting on the surrounding road network and shall include details in relation to a construction programme, co-ordination of construction works and construction methodologies.

Reason: In the interest of orderly 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

19. The developer shall pay to the planning authority a financial contribution in respect of Metro North Saint Stephen's Green to City Boundary at Ballymun 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

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

Dated this day of 2011.