



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 3549/19

Appeal by John Kiefel of Flat 1, 11 Harcourt Terrace, Dublin and by Others against the decision made on the 12th day of September, 2019 by Dublin City Council to grant subject to conditions a permission to Strandmount Limited care of Thornton O'Connor of 1 Kilmacud Road Upper, Dundrum, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a 36 number bedroom part one to part six storey (over a part double basement) aparthotel (1,763 square metres over 660 square metres at basement level); nine number ancillary basement car parking spaces; vehicular access to the basement car park via the existing ramp to the west; pedestrian access via the existing laneway at the south-east of the site; a screened roof terrace (facing all directions) at fourth floor level; bicycle parking; hard and soft landscaping including a green wall; loading bay; boundary treatments; plant and all associated development works above and below ground, all on a 0.1024 hectare site at Charlemont Place, Dublin, principally bounded by a commercial building (number 21 Charlemont Place) to the south, the Green Line Luas track to the west, the 'Peter Place' residential dwellings to the north and the 'Hilton Mews', 'Harcourt

Terrace/Harcourt Mews' residential dwellings and a commercial building (Charlemont House) to the east. The site incorporates a Protected Structure (a Spring Well).

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 location of the development, to the pattern of development in the area, to the provisions of the Dublin City Development Plan 2016-2022 and to the nature, scale, layout and design of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or other amenities of the area or of adjoining property, would be acceptable in terms of the impact on architectural and cultural heritage of the area and would be acceptable in terms of traffic safety and convenience. 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 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 roof terrace at third floor level shall be omitted from the proposed development. Prior to commencement of development, revised plans detailing the omission of the roof terrace shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of residential amenity.

3. An information board detailing the historical significance of the Well Protected Structure 3563 (Spring Well) shall be erected in an appropriate location adjacent to the reconstructed well structure. Prior to commencement of development, details of this information board shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of enhancing the amenity of the area and in the interest of ensuring that the historical significance of the protected well is conveyed in an appropriate manner.

4. All works to the protected structure, shall be carried out under the supervision of a qualified professional with specialised conservation expertise.

Reason: To ensure the authentic preservation of this protected structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

5. 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.

In default of agreement of 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 ensure the preservation and protection of any remains that may exist within the site.

6. Details, including samples, of the materials, colours and textures of all the external finishes to the building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. The aparthotel units shall only be occupied for short term letting periods of no more than two months and shall be operated within the definition of aparthotel as set out in Appendix 16 of the Dublin City Development Plan 2016-2022. The aparthotel shall be managed by a reception facility on the ground floor with 24 hour reception and security facilities. The aparthotel units shall not be used as independent self-contained permanent residential units or student accommodation.

Reason: To ensure that the development would accord with the provisions of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

8. The proposed development shall be implemented in such a manner as to ensure no adverse impact on Luas operation and safety and shall comply with Transport Infrastructure Ireland's Code of Engineering Practice for works on, near or adjacent to the Luas light Rail System. Prior to commencement of development, the developer shall consult with Transport Infrastructure Ireland and submit to the planning authority details showing compliance with these requirements for written agreement, including the following:
- (i) Prior to commencement of development, the developer shall obtain a permit from the Luas operator under the Light Railway (Regulation of Works) Bye Laws 2004 (SI No 101 of 2004) which regulates works occurring close to LRT infrastructure.
 - (ii) Programme for settlement and vibration monitoring programme during construction works,
 - (iii) Demolition and construction method statement, identifying all interfaces to the Luas alignment and risk assessment for work associated with the interfaces including mitigation measures.
 - (iv) Construction management plan and construction traffic management plan.
 - (v) Lighting and public realm scheme in the context of the Luas light rail system.

Reason: In the interest of traffic safety and to ensure no adverse impact on Luas operation and safety.

9. A minimum of 10% of the proposed car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces in the multi-storey car park shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Details of how it is proposed to comply 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 sustainable transport.

10. No additional development shall take place above roof parapet level including lift motor enclosures, 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: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

11. No signage, advertising structures/advertisements, security shutters or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

12. 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.

13. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

14. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to commencement of development.

Reason: In the interest of amenity and public safety.

15. 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.

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 construction of the development shall be managed in accordance with a construction 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 provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compound including area 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 parking/transport facilities for site workers during the course of construction;
 - (e) Details of 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 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 specifically 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.

Reason: In the interest of amenities, public health and safety.

18. 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 recyclable materials and for the ongoing operation of these facilities 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.

19. 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.

20. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme 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 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, 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.

Paul Hyde

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

Dated this day of 2020.