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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3688/19**

**Appeal** by The Layden Group Limited care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 20<sup>th</sup> day of March, 2020 by Dublin City Council to refuse permission for the proposed development.

**Proposed Development:** Amendments to previously approved proposal PL29N.248718, P.A. Register Reference 4252/16 (change of use and extension of existing two storey terraced premises from commercial bank premises (previous Bank of Ireland branch office) to Retail and Ancillary uses). This application includes a) relocation of ancillary retail uses (staff amenities, administration, and storage), from the first floor to the rear of the ground floor retail store and b) the provision of eight number residential units located at first and second floor level of the existing structure fronting onto Swords Road. This amended proposal includes for the remodelling of the first floor to provide four number one bedroom apartments with a total gross floor area of 242.5 square metres (two number one bedroom units at 51.2 square metres each at rear and two number one bedroom units at 50.9 square metres each at front of existing building), and also includes for the redevelopment of the attic space to include four number studio apartments

with a total gross floor area of 188.6 square metres at second floor level (two number studio apartments at 38.8 square metres each at rear and two number studio apartments at 39.7 square metres each at front of existing building). A new external façade will be provided to the rear over the first and second floor levels with external patio at first floor level and projecting balconies at second floor level. Amendments are proposed to the existing façade to Swords Road comprising two number new dormer windows at attic (second floor) level and new stone shop front surround and a screened area for mechanical plant on the extended flat roof to the rear of the premises. In total, this amended proposal will provide 290.1 square metres of retail floor area, 94 square metres of ancillary amenities and 446 square metres of gross residential development (Total gross development floor area - 833.1 square metres) and includes all other elements permitted under PL29N.248718 at 85-87 Swords Road, Whitehall, 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.**

## **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 Dublin City Development Plan 2016-2022, the location of the site in proximity to the Dublin City University campus, the Z3 zoning of the site which allows for residential use above ground floor, and the form, 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 be acceptable in terms of density, would respect the existing character of the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the scale of the development, its location in proximity to Dublin City University, and the infill nature of the development and considered that the lack of dual aspect apartments could be dealt with by condition, and that the proposed development would not give rise to unacceptable levels of on-street car parking in the vicinity, and would be acceptable in terms of pedestrian and traffic safety.

## 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 plans and particulars submitted on the 24<sup>th</sup> day of February 2020, 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 proposed development shall be amended as follows:
  - (a) second floor Apartments A and C shall be amalgamated to form one number one bedroom dual aspect apartment,
  - (b) second floor Apartments B and D shall be amalgamated to form one number one bedroom dual aspect apartment, and
  - (c) secure weatherproof bicycle storage for six number bicycle spaces shall be provided within the yard area to the rear of the proposed development.

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 residential amenity.

3. 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.

4. Water supply and drainage arrangements, including the attenuation and 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.

5. The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.

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

6. No additional development shall take place above roof parapet level, including 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.

7. The noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the nearest dwelling between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

8. Site development and building works shall be carried out only between the hours of 0800 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.

9. 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.

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

**Dated this                      day of                      2020.**