



Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Planning Register Reference Number: 4423/19

Appeal by Aloft Hotel care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin and by Muireann Grogan of 4 Fumbally Lane, Dublin against the decision made on the 30th day of March, 2020 by Dublin City Council to grant subject to conditions a permission to TC Fumbally Properties Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: A mixed use development ranging from four to eight number storeys over basement and includes the re-use and extension of the protected structure, provides 4,843 square metres of hotel use from first to third floor level (144 number bedrooms), 2,390 square metres of Build-to-Rent Shared Living accommodation from fourth to seventh floor level (inclusive of amenity space) (69 number units), 213 square metres of co-working/artistic-creative studios, 142 square metres of restaurant and 147 square metres public community/event space uses at ground floor level. The detailed description of the proposed development is as follows:

- Restoration, refurbishment and extension of the existing building, a protected structure under RPS Reference: 5821, to facilitate the proposed redevelopment, including removal and reinstatement of sections of the rear wall, removal of internal dividing walls, removal of existing non-original floors, staircases and roof, reinstatement of original window openings at ground floor level and modifications to the fenestration at first floor level fronting onto New Row South.
- It is proposed to provide four number floors within the existing protected structure, including setback at second and third floor level.
- The internal and external modifications to the protected structure will accommodate co-working/artist studios, shared amenity space, a gym and community/event space at ground floor level and 72 number hotel rooms from first to third floor level.
- The refurbishment protected structure will be integrated with the proposed new building to the west via an entrance lobby at ground floor level, and from first to third floor level via linking corridors.
- The proposal includes a new seven-storey building, including a setback 8th storey in the central section of the building, above basement, at the junction of New Row South and Blackpitts, with an overall height of 27.3 metres.
- The proposed building will include reception/concierge, shared amenity space and restaurant at ground floor level, 72 number hotel rooms from first to third floor level and 69 number single occupancy shared accommodation units and amenity space from fourth to seventh floor level.

- The development includes communal residential amenity space to serve the shared accommodation units including, a screening room at basement level, residential lounges and gym facilities at ground floor level, communal areas at first floor level, informal breakout spaces from fourth to sixth floor level, laundry and lounge area at fifth floor level, and event space at seventh floor level. Two communal kitchen/dining areas are provided at fourth and seventh floor levels.
- External open space is located within the courtyard at ground floor level (347 square metres), fourth floor level (23 square metres) and roof terrace at seventh floor level (435 square metres).
- The development includes all associated and ancillary works including plant and storeroom facilities at basement level, surface cycle parking, bin storage, an Electricity Supply Board substation and switchroom, landscaping, boundary treatment, lighting and all associated site works including underground foul and storm water drainage network and attenuation areas.

All at 27-29 New Row South, Dublin. The application site is located at the junction of New Row South to the north-west, Blackpitts to the west and Fumbally Lane to the south and south-east. The site contains a protected structure (referred to as a former laundry building under RPS Reference: 5821).

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

In coming to its decision, the Board had regard to the following:

- (a) the Z6 zoning objective for the subject site,
- (b) the objectives of the National Planning Framework - Project Ireland 2040 issued by the Government in February, 2018,
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016,
- (d) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, issued by the Department of the Environment, Heritage and Local Government in May, 2009,
- (e) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of Housing, Planning and Local Government in March, 2018,

- (f) 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 Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of the Environment, Heritage and Local Government in November, 2009
- (h) the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht, 2004,
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a wide range of social and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) the planning history within the area,
- (m) the submissions and observations received, and
- (n) the report of the Planning Inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development in terms of density and scale in this location, would not seriously injure the residential or visual amenities of adjoining property, would be acceptable in terms of pedestrian and traffic safety and convenience, would not give rise to flooding in the area and would provide an acceptable form of residential amenity for future occupants. 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, as amended by the further plans and particulars submitted on the 4th day of March, 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 shared accommodation units hereby permitted shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March, 2018 and be used for long term rentals only. Each 'shared living suite' shall be single occupancy only.

Reason: In the interest of the proper planning and sustainable development of the area.

3. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first 'shared living units' within the scheme.

Reason: In the interest of the proper planning and sustainable development of the area.

4. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Shared Accommodation scheme. Any proposed amendment or deviation from the Shared Accommodation model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

5. Prior to commencement of development, details of all signage associated with the development shall be submitted to, and agreed in writing with, the planning authority.

Reason: In order to safeguard the amenities of the area and the protected structure.

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

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

7. 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.

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

Reason: In the interest of visual amenity.

9. 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.

10. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to commencement of development.

Reason: In the interest of orderly development.

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be placed 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.

12. 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: In the interest of visual amenity, and to permit the planning authority to assess all signage on this site through the statutory planning process.

13. No additional development shall take place at roof level including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunications aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: In order to protect the visual amenities of the area and to permit the planning authority to assess any such development through the statutory planning process.

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 traffic management measures.

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

15. 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.

16. 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.

17. Prior to the opening of the development, a Mobility Management Strategy (including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns) shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. Details may include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The interim or temporary strategy, where applicable, should reflect the requirements of DMURS Interim Advice Note – Covid Pandemic Response (May, 2020).

Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.

18. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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 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 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.

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