



An
Bord
Pleanála

Board Direction
BD-002771-19
ABP-301931-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on March 29th 2019.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the city centre location of the development, the existing 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 provide for a strong and architecturally appropriate building on this site, would not seriously injure the visual or other amenities of the area or of adjoining property, would be acceptable in terms of impact on architectural and cultural heritage of the area and would be acceptable in terms of pedestrian and traffic safety. 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, as amended by the further plans and

particulars submitted on the 4th day of May 2018, 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:-

The universal access toilet at sixth, seventh and eighth floor levels shall be re-located in order to facilitate the provision of clear glazing, with no wall behind, for the full length of the north-western elevation on the sixth, seventh and eighth floors.

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 visual amenity.

3. 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.

4. 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 the commencement of development, the developer shall consult with TII and shall submit to, and agree in writing with, the planning authority details showing compliance with these requirements, including the following:

- (a) 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.
- (b) Programme for settlement and vibration monitoring programme during construction works,
- (c) Demolition and construction method statement, identifying all interfaces to the Luas alignment and risk assessment for work associated with the interfaces including mitigation measures.
- (d) Construction management plan and construction traffic management plan.
- (e) Lighting and public realm scheme in the context of the Luas light rail system.

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

5. The proposed retail/restaurant/café units shall not be used for the sale of hot food for consumption off the premises (that is, as a take-away), other than where such sale is subsidiary to the main retail/restaurant/café use, without a separate grant of planning permission for such use.

Reason: In the interest of clarity, and to allow the planning authority to assess any such change of use through the statutory planning process.

6. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, no additional development, other than that shown on drawings submitted with the application, 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 visual amenities of the area, and to allow the planning authority to assess any such development through the statutory planning process.

7. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on any of the proposed 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 orderly development, as inadequate details have been provided with the application in relation to signage, and to permit the planning authority to assess any such development through the statutory planning process.

8. 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.

9. As PA condition no. 10 (except sub-section I))

10. All car parking spaces associated with this development shall be allocated to the authorised uses within the development and shall not be sold, rented or otherwise sub-let or leased to other parties.

Reason: In the interests of clarity and sustainable transportation.

11. Prior to the commencement of development, the developer shall submit and agree in writing with the planning authority a landscaping and amenity scheme. The scheme shall include details of the materials/planting for all hard and soft areas. The approved scheme shall be completed prior to the making available by the developer for occupation of the development. On completion of the landscaping/amenity scheme for the development, the developer shall submit to the planning authority a certificate of completion from a suitably qualified landscape designer confirming that the landscaping works have been satisfactorily carried out in accordance with the approved landscaping/amenity scheme. The developer shall be responsible for full maintenance of the landscaping and for the replacement of all failed stock. A copy of the maintenance agreement with a suitably qualified person shall be submitted with the required certification.

Reason: In the interests of visual amenity.

12. Site development and building works shall be carried out only between the hours of 0700 to 1800 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, or as may be required to comply with condition number 4 of this order.

Reason: In order to safeguard the amenities of property in the vicinity.

13. 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.

14. 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.

15. Prior to the opening of the development, a mobility management strategy 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 car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company within the development. Details shall be agreed with the planning authority and shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

16. 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.

17. 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.

18. 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. 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.

Note: In reaching its decision, the Board had regard to the Preferred Route for MetroLink, which had been publicly announced by NTA/TII in March 2019, which was subsequent to the discharge of the Inspector's report on December 17th 2018. This indicated that the MetroLink project was unlikely to impact upon the subject site.

[Please issue a copy of this Direction with the Board's Order.]

Board Member

Date: 8th April 2019

Philip Jones