



An
Bord
Pleanála

Board Direction
BD-002239-19
ABP-302749-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on January 16th 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

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

- (a) the policies and objectives in the Dublin City Development Plan 2016-2022;
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (c) the National Student Accommodation Strategy 2017;
- (d) the Urban Development and Buildings Heights, Guidelines for Planning Authorities 2018;
- (e) the nature, scale and design of the proposed development;
- (f) the pattern of existing and permitted development in the area, in particular the adjoining student accommodation under construction to the north of the site;
- (g) the submissions and observations received, and
- (h) the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be in accordance with the provisions

of the Development Plan, would not lead to an over-concentration of student accommodation within 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 proposed 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. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The development hereby permitted shall be used solely for the purposes of student accommodation, as defined in section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, and shall not be used for any other purpose without a prior grant of planning permission for change of use.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

3. The proposed development shall be operated and managed in accordance with the measures indicated in the Student Accommodation Management Plan submitted with the application, which shall ensure the provision of 24-hour on-site management of the units (including out of term time).

Reason: In the interest of residential amenity.

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

Reason: In the interest of visual amenity.

5. Prior to the commencement of development, the following details shall be submitted to, and agreed in writing with, the planning authority:
 - (a) An integrated public lighting design for the site, which shall be so designed, aligned and, where necessary, cowled to ensure that there is no light overspill onto adjoining residential properties nor onto the LUAS platform or track.
 - (b) Details in respect of the upgrade works to the lane serving the development to the south of the site.
 - (c) Details of the proposed entrance gate, including design and materials
 - (d) Details of the design of bicycle parking stands, all of which shall be covered and well lit.

The agreed works shall be carried out and completed, to the written satisfaction of the planning authority, prior to the first opening for use of the proposed development.

Reason: In the interests of pedestrian and traffic safety, and of visual amenity.

6. No additional development, other than that shown on drawings submitted with the application, 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 amenity of property in the vicinity and the visual amenities of the area, and to allow the planning authority to assess any such development through the statutory planning process.

7. (a) 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.

(b) No roller shutters shall be erected on the exterior of the building at any doors/entrances to the student accommodation facility, or along any part of the external glazing of the building at ground floor level.

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

8. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling, shall not exceed:
 - (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
 - (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

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

- 9. The development shall comply with Transport Infrastructure Ireland's Code of Engineering Practice for works on, near, or adjacent to the Luas Light Rail system. The following specific requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:
 - (a) a vibration and settlement monitoring regime for Luas track infrastructure, which shall ensure that the track rail alignment remains within tolerance during demolition, site preparation and all construction works.
 - (b) plans and details indicating overhead conductor system pole protection and safety distances, which shall ensure that there is no risk of intrusion of people into the overhead conductor system danger zone via opening windows, maintenance, cleaning, balconies or terraces.
 - (c) an access and maintenance agreement to ensure continued access by the Luas operator/Transport Infrastructure Ireland at all times.
 - (d) a demolition and/or construction method statement which shall resolve all Luas interface issues including the identification of all Luas alignment interfaces, contain a risk assessment for works associated with the interfaces and measures to reduce any unacceptably high risks.

All monitoring, mitigation measures and any costs in the removal and reinstatement of Luas related building fixings and infrastructure shall be at the developer's expense.

Reason: In the interests of public safety and to protect the existing public transport network.

10. Vehicular access to the site shall be solely through the proposed entrance onto the laneway, and shall not extend beyond the areas shown on submitted drawings. Only pedestrian / cyclist access shall take place between the proposed development and the adjoining student accommodation development to the north of the site.

Reason: In the interest of pedestrian safety, and to encourage pedestrian and cyclist permeability.

11. 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. The following specific requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:
 - (a) Drainage details for the proposed development which shall be designed on a completely separate foul and surface water system with a combined final connection discharging into Irish Water's combined sewer system at Rathdown Road.
 - (b) A longitudinal/cross section of the proposed surface sewer route to Rathdown Road indicating the size and depth of the sewer and adjacent utilities.
 - (c) The incorporation of Sustainable Urban Drainage Systems (SuDS) in the management of surface water with a minimum requirement of a two-stage treatment approach. In this regard, attenuation tanks are not considered a SuDS device. All surface water shall be attenuated to two litres per second (per hectare).

Reason: In the interest of public health.

12. All CCTV equipment shall be located and designed so as not to be capable of viewing any residential properties or their private gardens/open spaces.

Reason: In the interest of protecting the residential amenities of the area.

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.

Reason: In the interest of sustainable waste management.

14. 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.

15. Site development and building works shall be carried out only between 0800 to 1900 hours 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. 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 off-site disposal of construction/demolition waste. It shall also incorporate all of the details and measures required to protect operational Luas infrastructure, under condition 9 of this order.

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

17. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

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

18. *Insert PA recommended condition no. 13 (in full) (including PA reason)*

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 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 (St. Stephen's Green to Broombridge Line)' 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 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.

Note: In making its decision, the Board noted the content of the submission by Transport Infrastructure Ireland (TII) received on 30th October 2018, and concurred with its view that it would not be appropriate for any direct access from the subject development to be taken to the Luas platform, and that to permit such a “private access” onto public infrastructure such as the Luas would set a precedent that would be contrary to the public infrastructure function of Luas and would not be in the interests of proper planning and sustainable development of the system.

[Please issue a copy of this Direction with the Board Order to the parties.]

Board Member

Date: 29th January 2019

Philip Jones