



An
Bord
Pleanála

Board Direction
BD-006019-20
ABP-304119-19

The submissions on this file and the Inspector's report were considered at Board meetings held on 31/07/19, 16/09/19, 07/11/19 and 18/06/2020.

The Board decided by a majority of 2:1 to grant permission, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the zoning of the subject site, to the relevant provisions of the statutory development plan, to the planning history of the site, to the prevailing pattern of development in the area, to the content of the planning application documentation including detail regarding the structural condition of the existing building on site, and to the nature and extent 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 amenities of the area or the amenity of property in the vicinity, would not adversely affect the character of the protected structure adjoining the site, would be acceptable in terms of pedestrian and traffic safety and would constitute an acceptable form of development on these zoned lands. The proposed development 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 considered the full extent of detail on the file including submissions from third parties and observers and concluded that the existing building on site, which is not a protected structure, presented issues of structural and functional challenge and its

replacement with a well-conceived design solution providing for new residential accommodation and café unit would constitute an appropriate and sustainable use of the zoned subject site. Furthermore having regard to the varied nature of built form in the vicinity of the subject site, it is considered that the proposed design solution will not adversely affect a defined character for this area, but will complement the current varied built form with a high quality modern design and layout. In addition, the Board considered that the proposed layout amendments submitted by the applicant as a response to the third party appeals, provided an improved disposition of the original proposed building form on the site, whilst not entailing any material difference to the nature and extent of the development as originally proposed in terms of, quantum of residential accommodation, the nature and form of the café unit, or scale, design and finishes. In this context and noting the circulation of the proposed amendments to all parties and the responses submitted to An Bord Pleanála, the Board concluded that the proposed development subject to conditions, would not impact on the character of the protected structure (Jackson's Turret - RPS 300) which adjoins the subject site, or the specific residential amenity of the protected structure, by reason of overshadowing. Finally, the Board did not share the view of the Inspector that the proposed development would be incongruous with the visual amenities of the area by reason of siting, scale and bulk, and concluded that the proposed scale and form of development proposed can be readily subsumed into the visual urban landscape at this location.

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 13th day of February 2019 and by the further plans and particulars received by An Bord Pleanála on the 13th day of May, 2019, and the 16th day of October 2019, 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The existing red brick on Curragower House shall be preserved and incorporated into the finishes of the proposed development.

Reason: In the interest of visual amenity.

3. The hours of operation of the proposed café unit shall be between 0800 hours and 2000 hours only Monday to Sunday unless authorised by a subsequent planning permission.

Reason: In the interest of the residential amenities of property in the vicinity

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

Reason: In the interest of public health.

6. No signage, security shutters, or other projecting elements, including flagpoles, shall be erected on site related to the proposed café unit, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

(a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;

(b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;

(c) details of proposed street furniture, including bollards, lighting fixtures and seating;

(d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

8. 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.

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

9. 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.

10. Ducting shall be provided for car parking spaces, to facilitate the installation of electric vehicle charging points/stations. Details of how it is proposed to comply with the above requirements shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the making available by the developer for occupation of any of the residential units in the proposed development.

Reason: In the interest of sustainable transportation.

11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

12. 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.

13. Public lighting shall be provided in accordance with a scheme, [which shall include lighting along pedestrian routes through open spaces] details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

15. 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.

Board Member

Date: 29/06/2020

Chris McGarry