



An
Bord
Pleanála

Board Direction
BD-009102-21
ABP-309677-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/09/2021.

The Board decided to grant permission, 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.

- Dublin City Development Plan 2016 22 in particular to:
 - **Policy SC25:** which promotes development which incorporates exemplary standards of high quality, sustainable and inclusive urban design, urban form and architecture benefitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods.
 - **Policy CHC1:** which seeks the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.
 - **Policies CHC2 & CHC4:** which seek to ensure the protection of the special interest, character and setting of Protected Structures and Conservation Areas.
 - **Policy CEE12:** Promote and facilitate tourism, including the necessary significant increase in hotels, cafes, restaurants etc.

and it considered that the proposed development subject to compliance with the conditions as set out below, would represent an appropriate and sensitive design response to a prominent site within the Temple Bar Conservation Area / Merchants Arch

In deciding not to accept the Inspector's recommendation to refuse permission, the Board concurred with the analysis and decision of Dublin City Council to grant permission and was satisfied that the proposed development had satisfactorily addressed the previous reasons for refusal in case ABP-305942-19.

In deciding not to accept the Inspector's recommended **Reason No 1** to refuse permission the Board was satisfied that the proposed development, having regard to its design approach, materials, fenestration, scale and massing, would provide an appropriate urban design solution for this prominent infill site adjoining the Merchant's Arch Laneway, an important pedestrian route from Henry Street to the north of the River Liffey to Dame Street to the south.

The Board considered that the proposed development would constitute an appropriate quantum of development on the site and would not seriously injure the character of the Temple Bar Conservation Area and would not conflict with the objectives of Policy CHC4 of the Dublin City Development Plan 2016-2022, which seeks to protect the special interest and character of such conservation areas. It further considered that the proposed development would advance the objectives of Policy CEE12: which seeks to promote and facilitate tourism, including the necessary significant increase in hotels, cafes, restaurants etc.

Furthermore, the proposed development would not seriously injure the visual amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommended **Reason No 2** to refuse permission the Board considered that the proposed development of a single large restaurant unit at ground floor level, to replace a number of smaller retail premises fronting onto Merchants Arch, would be an acceptable design approach which would not have a negative impact on the scale, urban grain and vibrancy of the area and on the contrary would assist in animating the southwest corner of this important street/lane intersection.

The Board considered that the proposed development would satisfy the Z5 zoning objective for the area, as set out in the Dublin City Development Plan, 2016-2022," to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity"

Finally, the Board considered that the loss of the existing mix of small-scale commercial units was acceptable and the consolidated use would continue to contribute to the existing vibrancy and character of the Temple Bar area, and also to Merchant's Arch Lane, and would be in accordance with the Z5 zoning. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

EIA Screening

Having regard to the nature and scale of the development, together with the urban / built nature of the site, the Board adopted the screening conclusion of the Planning Inspector and concluded that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

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 22nd day of January, 2021, 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 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.

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. 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: To protect the visual amenities of the area.

5. No additional development 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 amenities of property in the vicinity and the visual amenities of the area.

6. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

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. 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.

9. 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.

Board Member



Paul Hyde

Date: 17/09/2021

