



An
Bord
Pleanála

Board Direction
BD-017356-24
ABP-313947-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/08/2024.

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

The Board had regard to:

- (a) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018, which seeks more balanced and concentrated growth and targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas
- (b) the objectives of the Dublin Metropolitan Area Strategic Plan as set out in the Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 to promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target of 50% of all new homes within or contiguous to the built-up area of Dublin City and suburb,
- (c) the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in October, 2011,

- (d) the provisions of Dublin City Development Plan 2022-2028 and the site's location in Dublin City Centre on lands with zoning objective Z5 which seeks to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity,
- (e) the character and pattern of existing and permitted development in the area,
- (f) the layout, form, mass, height, materials, finishes and design detail of the proposed development,
- (g) the Environmental Impact Assessment Report submitted,
- (h) the appeals and observations made in connection with the planning application, and
- (i) the report and recommendation of the Planning Inspector.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the planning application,
- (c) the submissions from the planning authority, prescribed bodies, the appellants and the observers in the course of the application, and
- (d) the Planning Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and

associated documentation submitted by the applicant and submissions made in the course of the application.

Reasoned Conclusions on the Significant Effects

The Board considered, and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- **Population and Human Health:** Potential negative impacts on Moore Street Market and retail and commercial outlets in the adjoining area during the construction phase arising from the potential need for market traders to relocate or cease trading and the potential reduction in shopping amenity and footfall. Potential negative impacts to human beings arising from noise, dust, traffic, excavation and demolition impacts during the construction phase will be mitigated with the preparation of a Construction and Demolition Management Plan which will include traffic management measures. Positive impacts through the redevelopment of a brownfield and underutilised city centre site for employment and cultural spaces that will improve the townscape and visual setting in addition to job creation and spin off benefits.
- **Cultural Heritage:** Adverse impacts arising from the demolition of built fabric. There will be positive impacts arising from the redevelopment of a currently underutilised site which is respectful of the built heritage to the south on Moore Street.
- **Landscape (Townscape and Visual Impact):** The proposed development entailing modern design interventions will have a material impact on the urban and visual character of the area. The juxtaposition of the new and the old would provide for visual interest.

Notwithstanding the conclusions reached in respect of the negative socio-economic impact of the construction phase on traders and businesses in the vicinity and demolition of the built fabric, it is considered that the environmental effects would not

justify a refusal of planning permission having regard to the overall benefits of the proposed development.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector. The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

Conclusions on Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development:

- would secure the redevelopment of under-utilised urban land in a prominent city centre location which forms part of a key opportunity site in the North East Inner City (Area 10), Strategic Development Regeneration Area in the Dublin City Development Plan 2022-2028 which is identified as a civic/cultural hub and focus for quality retail and mixed-use development. The proposed development would assist in the redevelopment and rejuvenation of this part of Dublin City in accordance with the development plan's policies and objectives;
- would be consistent with national, regional and local policy measures and guidance which seeks to secure more compact and higher density development in city centre areas;
- would make a positive contribution to the urban character of the area; and
- would not seriously injure the amenities of development in the area, the O'Connell Street and Environs Architectural Conservation Area, the character and appearance of the National Monument at numbers 14-17 Moore Street, the protected structure within the site and protected structures in the vicinity.

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 planning and particulars lodged with the application, as revised by the further plans and particulars submitted on the 20th day of October 2021 and amended by further plans and particulars submitted on the 29th day of April 2022, 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 development 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. All mitigation and monitoring commitments identified in the Environmental Impact Assessment Report (and summarised in Chapter 18) shall be implemented in full as part of the proposed development, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the proposed development.

3. The period during which the proposed development hereby permitted may be carried out shall be 12 years from the date of this Order.

Reason: Having regard to the nature of the proposed development, the Board considered it reasonable and appropriate to specify a period of the permission in excess of five years.

4. The development shall be amended as follows:

- (a) Revised elevational treatment to O'Rahilly Terrace providing for amended fenestration treatment and external finishes.
- (b) Café/restaurant number 3 as delineated on drawing number 1100 Rev. P01, received by the planning authority on the 20th day of October 2021, shall be served by increased glazing onto O'Rahilly Parade.
- (c) The refuse store frontage onto O'Rahilly Parade shall be reduced.
- (d) Fenestration detail to the Moore Street elevation shall be amended to reflect that of the terrace immediately to the south.
- (e) The black painted glass on the south elevation (onto the public square) of the building shall be omitted.

Revised plans showing compliance with this condition shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

- 5. A revised landscaping plan shall be submitted, for the written agreement of the planning authority, prior to commencement of development and shall include:
 - (a) The boundary treatment between Moore Lane and the new public plaza shall be delineated by means of changes in surface treatment and street furniture.
 - (b) Delineation of historic plots and boundaries that have been removed.
 - (c) Street furniture and lighting

Reason: In the interests of visual amenity and to retain the delineation of existing street patterns.

6. Details of the proposed boundary to the public space to be provided on the development of the site to the south until the development is completed on the site shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of visual amenity.

7. All materials, colours and textures of all the external finishes to the proposed buildings shall be in accordance with the Architectural Design Statement received with the planning application, as amended by the further plans and particulars submitted on the 20th day of October, 2021. Any deviation from these details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. Prior to commencement of development, the developer shall provide for the following: -
 - (a) the appointment of a conservation expert who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works, and
 - (b) all repair/restoration works shall be carried out in accordance with the best conservation practice as detailed in the planning application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in October, 2011. The repair/restoration works shall retain the maximum amount of possible of surviving fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

Reason: To sure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage of loss of fabric.

9. The complex of buildings and associated historic features on the site shall be recorded and documented to a detailed form and level to include a written account and visual record to include measured plans, sections, elevation (scale 1:100), fixture of significance, construction materials and any earlier interventions. The plans, sections, elevations and architectural details shall be cross referenced to a photographic record and locations of detailed features. Copies of all recording material, condition reports and demolition processes relating to the buildings shall be lodged with the Irish Architectural Archives on completion of the works.

The boundary wall between numbers 23 and 24 Moore Street shall be recorded and documented with a methodology for its salvage and reuse to be submitted to the planning authority for written agreement prior to commencement of development.

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

10. The developer shall agree in writing with the Department of Housing, Local Government and Heritage all measures to protect the National Monument at numbers 14-17 Moore Street including extent of temporary exclusion zones if required. A copy of the agreement shall be submitted to the planning authority prior to commencement of development.

Reason: In order to protect the archaeological heritage of the National Monument.

11. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and

- (b) employ a suitably qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

Prior to commencement of development a report containing the results of the assessment shall be submitted to the planning authority. Arising from this assessment, the developer shall agree with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to the commencement of construction work. In default of any of these requirements, the matter shall be referred to the Board for determination

The assessment shall address the following issues: -

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 12. 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 visual amenity of the area.

- 13. 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.

14. The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

15. 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.

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 and dust control measures.

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

17. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the

commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

18. A detailed Strategy Service Plan which shall include details of its implementation and monitoring shall be submitted to the planning authority for written agreement prior to commencement of development. The strategy shall be reviewed 12 months from the occupation of the development and a copy submitted to the planning authority. Any alterations to the strategy plan required following the review shall be agreed in writing with the planning authority.

Reason: To ensure adequate serving on the development.

19. Prior to the opening of the development, a Mobility Management Plan 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 staff employed in the development and to reduce and regulate the extent of staff parking.

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

20. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

21. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority, 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, in particular, recyclable materials for the ongoing operation of the development. No raw materials, finished or unfinished product or parts, crates, packaging materials or waste shall be stacked or stored on the site any time except within the curtilage of the buildings or storage areas as may have been approved beforehand in writing by the planning authority.

Reason: To provide an appropriate management of waste and in particular recyclable materials in the interest of protecting the environment and in the interest of the amenity of the area.

22. Any alterations to the public roads and footpaths shall be in accordance with the requirement of the planning authority, and where required, all repairs to the public road and services shall be carried out to the satisfaction of the planning authority at the developer's expense.

Reason: In the interest of clarity, public safety and amenity.

23. Proposals for street/development names, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

24. Prior to the occupation of any of the retail, restaurant or café units, the specific use of each unit shall be agreed in writing with the planning authority.

Reason: In the interest of clarity and to ensure an appropriate mix of uses.

25. The developer shall control odour emissions, including extract duct and ventilation, from the restaurant and café units in accordance with measures which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of operation of the units.

Reason: In the interest of public health and to protect the amenities of the area.

26. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenity and public safety.

27. Details of all external signage shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the relevant unit.

Reason: In the interest of the amenities of the area and visual amenity.

28. A Climate Action Energy Statement shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interests of climate action and sustainable development.

29. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

30. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no advertisement signs (including 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 permission.

Reason: To protect the visual amenities of the area.

31. 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.

32. The developer shall pay to the planning authority a financial contribution in respect of 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, 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.

33. 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.

Note:

In arriving at its decision, the Board generally agreed with the inspector in relation to the recommended decision and the recommended conditions. The Board decided to vary from the inspector's recommended condition number three as set out in the inspector's report to allow a duration period of twelve years for the life of the permission. The Board was satisfied that having regard to the rationale put forward by the applicant in relation to the complexities and the inter-relationship of the construction management between the various development sites within Dublin Central and the constraints of the site in a city centre location, and taking into account all of the submissions on the appeal file, a period of twelve years was considered appropriate for the duration of the life of the permission. The Board noted in particular that this site, Site 5, is proposed to be used for temporary vehicle access and a construction compound for construction of sites 2, 3 and 4 and this further

informed the Board's decision to grant permission for a duration period of twelve years for the life of the permission.

Board Member

Patricia Callear

Patricia Callear

Date: 22/08/2024