

An  
Bord  
Pleanála

**Board Direction**  
**BD-016452-24**  
**ABP-317902-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 31/05/2024.

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**

Having regard to the zoning objective pertaining to the site, the nature and extent of the proposed development and the pattern of development in the area, it is considered that, subject to the conditions set out below, the development would not seriously injure the amenities of the area or property in the vicinity. The design and form of the proposed development would be suitable given the surrounding townscape and the scale, massing, and density of the development would be acceptable and would not be significantly above the prevailing context. Residential amenity impacts associated with the development can be appropriately mitigated by conditions as can issues regarding disturbance and orderly development during the course of construction. The development would not have any significant environmental impacts and the loss of trees would be appropriately mitigated by replanting and the proposed extensive landscaping scheme which is considered to be acceptable and would not be prejudicial to public health or the environment and would generally be acceptable in terms of design, traffic safety, ecology, and amenity. The development would, therefore, accord 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 particulars lodged with the application, as amended by the further plans and particulars submitted on 7<sup>th</sup> July 2023, 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:

With the exception of the Family Rooms, windows on the first floor of the east facing elevation shall be fitted with opaque glazing and fixed shut to at least 1.8 metres above finished floor level.

**Reason:** In the interests of the protection residential and visual amenity

3. Prior to the commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

**Reason:** In the interest of public health.

4. In the event that any archaeological material is discovered during site works, the City Archaeologist shall be notified immediately. Further, it is obligatory under the National Monuments Act that the National Monuments Service, Department of Housing, Heritage, and Local Government, and the National Museum of Ireland are notified.

**Reason:** In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

5. The developer shall comply with the transport requirements of the planning authority including implementation of the measures contained within the Mobility Management Plan, appointment of a Mobility Manager/Travel Coordinator, cycle

parking management, compliance with the code of practice, and orderly development.

**Reason:** In the interest of sustainable development.

6. Water supply and drainage arrangements, including surface water management, implementation of the measures contained within the Basement Impact Assessment, and compliance with the Code of Practice, shall comply with the requirements of the planning authority for such works and services, with details submitted and approved in writing prior to commencement of development.

**Reason:** In the interest of public health.

7. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

a) A plan to scale of not less than 1:500 showing –

- i. Existing trees and hedgerows which are proposed for retention and the measures to be put in place for their protection during the construction period.
- ii. The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include *prunus* species.
- iii. Details of boundary/screen planting which shall not include *cupressocyparis x leylandii*
- iv. Details of replacement planting for the two trees removed from the Capuchin Friary site.
- v. Hard landscaping works, specifying surfacing materials, furniture, and finished levels.

b) A timescale for implementation including details of phasing

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

8. 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 EPA'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.

**Response:** In the interest of sustainable waste management.

9. Prior to the commencement of the proposed development, a baseline noise survey shall be conducted by an independent qualified technician during a representative time-period and approved in writing by the planning authority.

**Reason:** In the interest of residential amenity and public health.

10. The development shall comply with the following:

- a) During the operational phase of the proposed development, the noise level arising from the development (with all plant operating) at any point along the boundary of the site shall not exceed:

- (i) An  $L_{AeqT}$  value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. The T value shall be 30 minutes



- (ii) An  $L_{AeqT}$  value of 45 dB(A) at any other time. The T value shall be 15 minutes. The noise at such time shall not contain a tonal component.
- b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996-2:2017: Acoustics – Description, measurement, and assessment of Environmental Noise.
- c) A validation report shall be submitted to and approved in writing by the Planning Authority within six months of the facility hereby approved coming into operation, confirming that the standards set out above have been met.

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

11. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between the hours of 0800 to 1400 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.

12. The demolition and construction of the development shall be managed in accordance with a Demolition and Construction Environmental 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 the intended demolition and construction practice for the development; noise, dust and vibration monitoring and management measures; waste management and recycling of materials; environmental protection measures; welfare facilities; site deliveries; complaints procedure and public liaison; air pollution control and mitigation, pest control measures; and traffic management arrangements.

**Reason:** In the interest of public safety, environmental protection, and residential amenity.

13. The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

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

14. The proposed development shall adhere to the following:

- a) Prior to commencement of development a bat survey shall be conducted by a suitably qualified bat ecologist and according to Best Practice guidelines. This shall include both a winter hibernation survey and a summer survey. If any potential bat roosts are identified, the Developer shall apply for a Derogation License in accordance with Regulation 54(2) of European Communities (Birds and Natural Habitats) Regulations, 2011.
- b) Subject to any requirement to obtain a Felling Licence from the Forest Service of the Department of Agriculture, Food and the Marine, any removal of mature trees to take place, shall not occur within the period of March 1st to August 31st.

**Reason:** In the interest of the protection of Flora and Fauna and the proper planning and sustainable development.

#### Note

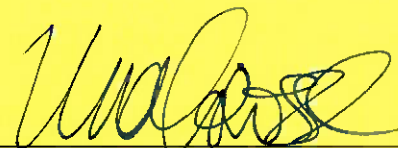
The Board noted the provisions of Policy CA6 of the Dublin City Development Plan 2022-2028 which seeks to promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible, and to the provisions of section 15.7.1 of the CDP which states that where demolition is proposed, the applicant must submit a demolition justification report to set out the rationale for the demolition, having regard to the 'embodied carbon' of existing structures and demonstrate that all options other than demolition have been pursued.

While the Board considered that the absence of a demolition justification report as required by Section 15.7.1 would be contrary to said provision, it was not considered

that this absence was material as the Board considered the totality of the information submitted with the application and appeal which it was considered was satisfactory to facilitate the Board making an informed decision on the matter.

In this regard, the Board concurred with the Inspector that, there would be significant impediments to retrofitting and extending the existing building in order to meet HIQA standards, due to the existing building fabric and the restrictive layout. It was also agreed that a key requirement in respect of linking the proposed extension to the existing facility would not be readily achievable by using the existing structure thereby impacting the continuity of operation and access. The Board also noted that the Planning Authority had not sought such a statement. The Board agreed with the Inspector that a condition securing a Resource Waste Management Plan in line with the Environmental Protection Agency's best practice guidelines would be acceptable in this regard.

**Board Member**



Una Crosse

**Date:** 31/05/2024