



An
Bord
Pleanála

Board Direction
BD-017600-24
ABP-318150-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 23/09/2024.

The Board decided to grant permission, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the Dublin City Development Plan 2022- 2028, the 'Z10' zoning objective of the site, the pattern of development and recent permissions in the area and to the nature and scale of the development proposed, 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, impact adversely on the setting or character of the adjoining protected structure or the Architectural Conservation Area the site is located in, would respect the character and pattern of development in the area and would make a positive contribution to the streetscape. 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 were satisfied that the scope of the amendments proposed in the applicant's appeal submission were not material and could be considered by the Board. When examined, the Board took the view the details provided sufficiently addressed the concerns regarding impacts of the proposed development in relation to the protected structure. Having considered the totality of information provided by the applicant including the Architectural Heritage Impact Assessment and appeal documentation

alongside the requirements of the Dublin City Development Plan and Architectural Heritage Protection Guidelines for Planning Authorities (2011), the Board was satisfied the proposal would not have an adverse impact on the protected structure and would not be contrary to the Dublin City Council Height Strategy (Appendix 3) and policy BHA2 of the Development Plan.

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 to An Bord Pleanála on the 3rd day of October 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. A minimum of 5% of the net floor area shall be assigned to community, arts and cultural spaces and details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure delivery of Development Plan Policy CUO25.

3. 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 and to ensure a high standard of public realm.

4. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001 (as amended), shall be displayed or erected on the building exterior/within the curtilage of the site without a prior grant of planning permission.

Reason: To allow further assessment of the impact of the permitted advertisement on the amenities of the area and/or in the interest of visual amenity having regard to the location in an Architectural Conservation Area and/or the impact on protected structures.

5. 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 and surface water management.

6. The applicant or developer shall enter into water and waste water connection agreement(s) with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

7. 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 the commencement of development. The archaeologist shall assess the site and monitor all site development works.

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.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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

- 8. Prior to the commencement of development on the Protected Structure, the applicant/developer shall submit, for the written agreement of the planning authority, a detailed method statement covering all works proposed to be carried out, including: (a) a full specification, including details of materials and methods, to ensure the development is carried out in accordance with current Conservation Guidelines issued by the Department of Arts, Heritage & the Gaeltacht, (b) methodology for the recording and/or retention of concealed features or fabric exposed during the works, (c) details of features to be temporarily removed/relocated during construction works and their final re-instatement, (d) materials/features of architectural interest to be salvaged, (e)

details of the replacement of any brickwork or any works of re-pointing which shall be undertaken so that it matches the original existing wall finish, (f) details of the existing roof slates, chimney stacks and pots which shall be retained, any replacement roof slates shall match the existing, (g) details of the remaining rainwater goods and bargeboard which where possible shall be repaired and reused, the replacement of which (if any) shall match the original in terms of design and materials, (j) details of replacement windows which shall be modelled on surviving windows and shall match them in dimensions, opening mechanism, profiles and materials.

Details to be accompanied by drawings of an appropriate scale of not less than 1:50.

Reason: In the interest of the protection of architectural heritage in accordance with the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities.

9. 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.

Reason: In the interests of visual and residential amenity.

10. The road network serving the proposed development including turning bays, junctions, parking areas, footpaths, kerbs, and access road to the service area and the underground car park shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS). Details of all locations and materials to be used including in relation to Richmond Street South and Richmond Villas shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

11. Prior to commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.

12. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

Reason: In the interest of environmental protection residential amenities, public health and safety and environmental protection.

13. 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.

14. 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.

15. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the commercial units are made available for occupation.

Reason: To provide for the future maintenance of this private development in the interest of visual amenity.

16. 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 reinstatement of public roads which may be damaged by

the transport of materials to the site, 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.

17. 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.

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

Board Member

Eamonn James Kelly

Date: 25/09/2024

Eamonn James Kelly

Note

The Board noted and accepted the Inspector's assessment and conclusion that the planning authority's reasons one and three for refusal were not warranted.

Regarding the impact on the protected structure, the Board shared the view of the Inspector that the amendments detailed in the appeal submission would clearly be beneficial in terms of reducing the impact of the development on the protected structure, particularly the removal of the atrium and reducing the level of demolition within the protected structure. Furthermore, the Board took the view that the scope of the amendments proposed in the applicant's appeal submission, pulling back the volume of the new build in a way that addresses and reduces the impact on the protected structure, would not represent a material alteration to the scheme as submitted and advertised. Also, the Board did not consider the scale, proximity and

prominence of the northern arm of the proposed building, relative to the protected structure, to be sufficiently significant as to warrant refusal.

In addition, the Board also noted the proposed set-back to the building line to increase the width of the access route along Richmond Villas.