

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Register Reference Number: 2755/15

An Bord Pleanála Reference Number: PL 29N.245869

APPEAL by An Taisce of The Tailor's Hall, Back Lane, Dublin and by Francis Ennis care of Brock McClure Planning and Development Consultants of 63 York Road, Dun Laoghaire, County Dublin against the decision made on the 12th day of November, 2015 by Dublin City Council to grant subject to conditions a permission to the said Francis Ennis in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Provision of a commercial development (total gross floor area circa 2,509 square metres) of four to six storeys in height comprising retail use (circa 822.8 square metres) at basement and ground floor level, the option of providing retail or office accommodation at first floor level (circa 319 square metres) and office accommodation (circa 1,296 square metres) over four storeys above first floor level. The proposal shall provide for a balcony area of circa 8 square metres at first floor level and two accessible roof deck areas at fourth floor of circa 23 square metres and circa 81.5 square metres respectively. The development shall also include the demolition of internal walls, partitions and internal stairwells to provide for the amalgamation of number 60 and number 61, minor modifications to the façade at number 60, redevelopment of the façade at number 61, internal and external service areas, storage areas, male and female toilets, lobby areas, roof lights, pedestrian access at ground floor level via Middle Abbey Street and North Lotts and all associated site development works at 60 and 61 Middle Abbey Street, Dublin with frontage onto North Lotts.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the nature, scale and setting in addition to the zoning of the site, the Board considered that the proposed development, subject to compliance with the conditions set out below, would represent an acceptable contribution to the character of the local streetscape and would not seriously injure the character of the nearby Architectural Conservation Area. 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 that the proposed development represented an acceptable contribution within the local streetscape and did not constitute a negative addition to the character of Middle Abbey Street and is in accordance with the provisions of the Dublin City Development Plan 2011-2017.

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 16th day of October, 2015, 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 fifth floor shall be omitted from the proposed development. Revised plans and particulars shall be submitted to, and agreed in writing with, the planning authority prior to commencement of works on site.

Reason: In the interest of orderly development and visual amenity.

3. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The location of the proposed signage shall be as shown on the Proposed Front Elevation plan drawing number FI 1 submitted to the planning authority on the 16th day of October, 2015 and shall comprise of individually mounted lettering with a depth of not more than 400 millimetres. Prior to the occupation of the development, details of the materials, colours and textures of the proposed signage including samples, shall be submitted to, and agreed in writing with the planning authority.

Reason: in the interests of orderly development and the visual amenities of the area.

5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, any change to the display panel, including any increase in the number of posters to be displayed, the scrolling mechanism or the internal/external illumination, shall be the subject of a separate application for permission to the planning authority.

Reason: To enable the planning authority to assess the impacts of any such changes on the amenities of the area.

6. A window display shall be maintained at all times, and the glazing to the shopfront shall be kept free of all stickers, posters and advertisements.

Reason: In the interests of visual amenity.

7. The sound levels from any loudspeaker announcements, music or other material projected in or from the premises shall be controlled so as to ensure the sound is not audible in adjoining premises or at two metres from the frontage.

Reason: In the interests of environmental amenity.

8. 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 and for the ongoing operation of these facilities 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.

9. 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.

10. 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.

11. The developer shall comply with the following requirements:
- (a) The developer shall submit two revised copies of a detailed site drainage plan to the planning authority for written approval. These plans shall be submitted not later than the submission of the commencement notice for the development, and drainage works shall not commence prior to the issuing of such written approval.
 - (b) The drainage for the proposed development shall be designed on a completely separate system with a combined final connection discharging into the public combined sewer system.
 - (c) To minimise the risk of basement flooding, all internal basement drainage shall be lifted, via pumping, to a maximum of 1.5 metres below ground level before being discharged by gravity from the site to the public sewer.
 - (d) The development shall incorporate Sustainable Drainage Systems in the management of stormwater. Full details of this shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
 - (e) The developer shall ensure that an appropriate flood risk assessment, in accordance with Office of Public Works Guidelines, is carried out for the proposed development

- (f) All surface water discharge from this development shall be attenuated to two litres per second or at a rate to be agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure a satisfactory standard of development.

12. Prior to the commencement of development, the developer shall submit a detailed constructability plan for the written agreement of Transport Infrastructure Ireland.

Reason: In the interest of public safety and the operation of the LUAS Tram system.

13. 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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.