

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Dublin City**

**Planning Register Reference Number: 2907/15**

An Bord Pleanála Reference Number: PL 29S.246118

**APPEAL** by Robert Stafford and Ciara Ryan of 11 Washington Street, South Circular Road, Dublin and by DS Charlemont Limited care of Simon Clear and Associates of 3 Terenure Road West, Terenure, Dublin against the decision made on the 19<sup>th</sup> day of January, 2016 by Dublin City Council to grant subject to conditions a permission to the said DS Charlemont Limited in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** A mixed-use development consisting of:

- Construction of a four star, 181 bedroom hotel ranging from five-six storeys over basement, with associated business facilities, restaurant and hotel café/bar and fitness suite, roof terrace to 4<sup>th</sup> floor setback at Charlemont Mall, vehicular access from Charlemont Street and service vehicle access from Charlemont Mall.
- Provision of three number residential apartments (two number two-bedroom and one number one-bedroom) within existing buildings at 35 and 36 Charlemont Street.
- Partial demolition of number 36 at ground and basement level to provide vehicular access ramp to basement car park.

- Refurbishment of number 37 Charlemont Street (Protected Structure) including demolition of 20<sup>th</sup> Century wing and change of use from medical clinic to hotel lounge at ground floor with bedrooms at first and second floor.
- Works to the Protected Structure shall include demolition of non-original bay window, removal of non-original partition walls, installation of removable partition walls, formation of new ope in south-east elevation, installation of partitions, doors and window screens to comply with fire regulations, reinstatement of parapets to front and rear elevations, connection of new atrium rooflight structure to parapet.
- Demolition of all buildings within the site other than the Protected Structure at 37 Charlemont Street and those at 35 and 36 Charlemont Street.
- Boundary treatments, landscaping, site development works and ancillary services.

All at Charlemont Street and Charlemont Mall on the lands formerly occupied by the Charlemont Medical Clinic, including 37 Charlemont Street (former Saint Ultan's Hospital, a Protected Structure) and at 35 and 36 Charlemont Street, Dublin. A further public notice was received by the planning authority on the 18<sup>th</sup> day of December, 2015.

## **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 city centre location of the proposed development, and the Z10 Inner Suburban (Sustainable Mixed-Use) zoning objective for the site as set out in the Dublin City Development Plan 2011-2017,
- the nature, scale and design of the proposed hotel,
- the Grand Canal Conservation Area,
- the historic 1700s buildings within the site at 35, 36 and 37 (a protected structure) Charlemont Street, and the nature and extent of the proposed works to these historic buildings, and
- the pattern of existing and permitted development in the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be a permissible use under the land use zoning objective for the site as set out in the Development Plan, would integrate satisfactorily with the Protected Structure and historic buildings and with the established character and pattern of existing and permitted development in the area, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not seriously detract from the Grand Canal Conservation Area, and would be acceptable in terms of traffic safety and convenience. 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 plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 25<sup>th</sup> day of November, 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 development shall be amended as follows:
  - (a) Three floors of the proposed glazed link to the rear of the atrium shall be omitted.
  - (b) The third floor level of the northern block shall be omitted; the proposed setbacks at the upper levels shall be retained.
  - (c) The roofs of the new build to surround the protected structure to the north and south (at first floor level) and to the rear/west (at second floor level), as well the first floor roof to the glazed link adjoining the courtyard (at second floor level) shall be glazed only.
  - (d) The roof terrace adjacent to 20 Charlemont Mall, and all balconies serving bedrooms on the northern block shall be omitted. The glazing surrounds to these balconies and terrace shall be omitted. All the doors to the terrace/balconies shall be replaced with windows having a cill height to match adjacent windows. The replacement window design shall be such that access is not available to the terrace/balconies.
  - (e) All windows to the northern elevation of the northern block shall be fitted with louvered screens or with angled windows or other measures to prevent the overlooking of residential property to the north.

- (f) A high quality lighting and landscaping scheme shall be provided for the entire length of the pedestrian way.
- (g) Cycle parking shall be secure, conveniently located, well-lit and easy to use. Appropriate shower, changing, locker and drying areas shall be provided.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenity of the protected structure, the residential amenity of property in the vicinity, pedestrian safety and amenity, and sustainable transport.

3. The proposed works to the historic buildings shall be carried out under the supervision of a conservation architect qualified to at least Grade 2 RIAI or equivalent. A detailed conservation method statement in relation to the works to historic buildings shall be prepared by the conservation architect, and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. It shall contain complete details of all works to the historic buildings, and shall incorporate the following:
  - (a) All repair works to the three historic buildings shall be carried out in accordance with best conservation practice and the provisions of the “Architectural Heritage Protection Guidelines for Planning Authorities” issued by the Department of Environment, Heritage and Local Government (2005).
  - (b) Detailed plans and particulars shall be provided of the interface between the proposed new build and the historic buildings.
  - (c) The historic joinery within the three existing buildings shall be retained. Intervention to the historic fabric of these buildings shall be minimised in accordance with the requirements of the planning authority.
  - (d) A formal planting and paving scheme shall be provided to the courtyard and front entrance area to number 37 Charlemont Street; the proposed timber decking shall be omitted.

**Reason:** To protect architectural heritage.

4. The proposed aparthotel accommodation shall not be used for long-term letting or any form of long-term or permanent residential accommodation, and shall be used as hotel accommodation only.

**Reason:** The aparthotel accommodation does not comply with the requirements of the “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities” (2015), and is, therefore, suited to uses associated with the hotel only.

5. Prior to the commencement of development, an architectural survey of the twentieth-century annex to the front of number 37 Charlemont Street, including an inventory and photographs, shall be completed by a conservation architect qualified to at least Grade 2 RIAI or equivalent, and shall be submitted to, and agreed in writing with, the planning authority. A copy of the survey shall be lodged with the Irish Architectural Archive (DOCOMOMO) in accordance with the requirements of the planning authority.

**Reason:** In the interest of the preservation by record of architectural heritage.

6. Details, including samples, of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

7. The proposed pedestrian/cycle link shall be maintained open to the public during the hours of 07:00 to 21:00. Any hotel deliveries/collection via this pedestrian/cycle link shall be strictly limited to these hours, and shall not use this route outside of those hours. Delivery/collection vehicles shall not obstruct pedestrian and cycle access.

**Reason:** In the interest of pedestrian and cycle permeability and neighbouring residential amenity.

8. 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.

9. A plan containing details for the management of waste and recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and 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 recyclable materials, in the interest of protecting the environment.

10. Prior to the commencement of development, a pre-construction bat survey shall be carried out by a suitably qualified and experienced ecologist in all the existing structures on this site, in accordance with the requirements of the planning authority, following consultation with the National Parks and Wildlife Service.

**Reason:** To protect bats.

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 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.



12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interests of sustainable waste management.

13. 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 the following:
  - (a) location of the site and materials compound including the area for the storage of construction refuse,
  - (b) location of areas for construction site offices and staff facilities,
  - (c) details of site security fencing and hoardings,
  - (d) details of on-site car parking facilities for site workers during the course of construction,
  - (e) a construction traffic management plan, incorporating details of the timing and routing of construction traffic to and from the construction site and associated signage, to include proposals to facilitate the delivery of any abnormal loads to the site,

- (f) measures to obviate queuing of construction traffic on the adjoining road network,
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (i) construction hours,
- (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (k) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained; such bunds shall be roofed to exclude rainwater, and
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enters local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

14. 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.

15. The developer shall pay to the planning authority a financial contribution in respect of Metro North 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.

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

**Dated this            day of            2016.**