

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Register Reference Number: 3971/15

An Bord Pleanála Reference Number: PL 29S.246855

APPEAL by Kesteven Limited care of O'Connor Whelan of 222-224 Harold's Cross Road, Dublin against the decision made on the 8th day of April, 2016 by Dublin City Council to refuse permission.

PROPOSED DEVELOPMENT: Construction of a mixed use retail and student accommodation scheme in three to seven storey blocks (over partial basement on Stephen Street Upper) and a partial mezzanine at ground floor comprising: (1) demolition of the following buildings: numbers 71, 72 and 73 Aungier Street (gross floor areas of 170 square metres, 273 square metres and 257 square metres respectively); a former dancehall building to the rear of Aungier Street (gross floor area of 543 square metres); numbers 6, 7, 13, 14 and 14A (gross floor areas of 498 square metres, 185 square metres, 147 square metres, 95 square metres and 116 square metres respectively); (2) the construction of five number retail units at the ground floor level of Aungier Street and Longford Street Great with gross floor areas of 68 square metres, 100 square metres, 41 square metres, 69 square metres and 1,976 square metres. The latter is a foodstore with a net floor area of 1,350 square metres, and includes an ancillary off-licence sales area; (3) the construction of 300 number en-suite student accommodation bedrooms on the first to sixth floors comprising 30 number house units, each with communal kitchen facilities (ranging in size between three and eight single bed en-suite rooms) providing 282 bed spaces and 18 number one bed studio rooms (18 number bed spaces), and associated facilities including a central access lobby/reception area off Stephen Street Upper, a gym, a central amenity hub, recreation areas, administration areas, bin stores, bicycle parking area, gardens and open amenity areas within the development at first floor and roof gardens and private terraces on the roofs over the third, fourth, fifth and sixth floor

overlooking Upper Stephen Street, and the roofs overlooking Aungier Street, Longford Street Great and the central block; (4) 138 number cycle spaces; (5) an ESB sub-station and switch-room of 32 square metres; (6) a service yard/loading area and vehicular access off Stephen Street Upper and (7) associated plant, landscape and site development works, all on 0.325 hectare site bounded by 71-75 Aungier Street, 17-19 Longford Street Great, 6-14A Stephen Street Upper and Whitefriar Place, Dublin.

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 Z5 (city centre) zoning of the site in the Dublin City Development Plan 2011–2017, it is considered that, subject to compliance with conditions set out below, the proposed development would be in accordance with the zoning objective, would contribute to addressing the need for both additional student accommodation in the city centre and increased economic activity in the Aungier Street area, would allow full disclosure of the archaeological interest of the site and would be consistent with the preservation insitu of any masonry remains of the two recorded monuments that may be identified within the site and furthermore, would facilitate the retention and restoration of the historic buildings at numbers 73–75 Aungier Street and enhance the character of the Aungier Street Conservation Area.

The proposal would not seriously injure the visual and residential amenities of the area, would comply with development standards for student accommodation in the Dublin City Development Plan and 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 omit the top floor of the central block known as the pavilion and the roof top boxes and roof level communal spaces and the fourth floors of numbers 73 and 74 Aungier Street, the Board considered that these elements of the proposed development would not seriously injure the visual or residential amenities of the area or of adjoining properties, would not detract from the character and dignity of the Aungier Street Conservation Area, would be in accordance with the zoning objective for the site and would, therefore, be in accordance with the proper planning and sustainable development in the area.

The Board noted the Appropriate Assessment Screening determination carried out by the Inspector. The Board concurred with the Inspector's determination, and adopted his conclusions and recommendations in this regard. The Board was therefore satisfied, having regard to the nature, location and scale of the subject development, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have significant effects on any European sites in view of the sites' conservation objectives.

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 14th day of March 2016, 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:

That portion of the most north easterly kitchen on the first and second floors of the block that fronts onto Stephen Street Upper that projects beyond the main plane of the rear elevation of this block shall be omitted. The adjoining bedrooms denoted as number 8 on each of these floors shall be incorporated into the kitchens.

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

Reason: In the interests of residential amenity.

3. The developer shall facilitate the preservation, recording and protection of archaeological materials or features which exist within the site. In this regard, no construction or site preparation work may be carried out on the site until all archaeological requirements of the planning authority are complied with and the developer shall retain a licensed archaeologist to carry out the archaeological requirements of the planning authority. The developer shall also comply with the following requirements of the planning authority:
 - (a) A scheme for a second phase of test trenching, including methodologies to be used, shall be submitted to, and agreed in writing with, the planning authority.
 - (b) Based on the findings of the agreed second phase of test trenching, a scheme for the exact nature and extent of the archaeological excavation, including methodologies to be used, shall be submitted to, and agreed in writing with, the planning authority.
 - (c) Any masonry remains of the recorded monuments (the Church of Saint Peter (DU 018 020089) and the Aungier Street Theatre (DU 018 020162)) shall be preserved in-situ and a scheme for their protection, including during the construction phase, shall be submitted to, and agreed in writing with, the planning authority.
 - (d) A final scheme for the design of the piles and other below ground level elements of the proposal shall be submitted to, and agreed in writing with, the planning authority.
 - (e) Satisfactory arrangements for post-excavation research and the recording, removal and storage, of any archaeological remains which may be considered appropriate to remove, shall be agreed with the planning authority. In this regard, a comprehensive report on the completed archaeological excavation shall be prepared and submitted to the planning authority within a period of six months or within such extended period as may be agreed with the planning authority.

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

4. No construction or site preparation work may be carried out on the site until the developer has submitted to, and agreed in writing with, the planning authority a scheme for the public display of some masonry remains of the recorded monuments (the Church of Saint Peter (DU 018 020089) and the Aungier Street Theatre (DU 018 020162)), which shall be preserved in-situ.

Reason: In order to ensure the visibility and legibility of the recorded monuments for the benefit of the public at large.

5. No construction or site preparation work may be carried out on the site until the developer has submitted to, and agreed in writing with, the planning authority a scheme for the following:
 - (a) the detailed recording, stabilisation methodology, including during the construction phase, and subsequent works to ensure the retention in-situ of the two door cases and the archway on the southern boundary of the site with Longford Street Great, and
 - (b) the detailed recording, stabilisation methodology, including during the construction phase, and subsequent works to ensure the retention in-situ of the wall along the eastern side of Stable Lane.

Reason: In order to ensure the visibility and legibility of these historical structures for the benefit of the public at large.

6. Prior to the commencement of use of the student accommodation, the developer shall prepare a scheme which shall be submitted to, and agreed in writing with, the planning authority. This scheme shall include the following items:

- (a) details of all the content of the conservation wall to be installed in the front elevation of the block proposed for Stephen Street Upper,
- (b) details of the names of the blocks comprised in the proposal, and
- (c) details of any artwork to be included within the proposal that relates to the history of the site within its context.

Reason: In order to promote an awareness of the history of the site.

7. Prior to the demolition of the buildings at numbers 13, 14 and 14A Aungier Street and prior to the demolition of the former dance hall, the developer shall make a record of these buildings. This record shall include:
- (a) a full set of survey drawings to include elevations, plans and sections, and
 - (b) a detailed, labelled photographic survey of all internal rooms, the exterior and the curtilage of the buildings.

This record shall be submitted to the planning authority and one copy of this record shall be submitted to the Irish Architectural Archive.

Reason: In order to establish a record of these buildings.

8. Prior to the demolition of existing walls on the site (other than those cited in conditions numbers 3 and 4 above), the developer shall make a record of these structures. This record shall include:
- (a) a full set of survey drawings to include elevations, plans and sections, and
 - (b) a detailed, labelled photographic survey.

This record shall be submitted to the planning authority.

Reason: In order to establish a record of these structures.

9. All proposed works to the buildings at numbers 73–75 Aungier Street (inclusive), shall be carried out under the supervision of a qualified professional with specialised conservation expertise.

Reason: To ensure that the proposed works are carried out in accordance with best conservation practice.

10. Prior to the first occupation of the student accommodation, the proposed works to the buildings at numbers 73-75 Aungier Street (inclusive) shall be fully implemented.

Reason: In the interest of preserving the architectural integrity and heritage value of these buildings of historic interest.

11. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority, prior to the commencement of development. This scheme shall include the following:

- (a) details of all proposed hard surface finishes;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including lighting fixtures and seating; and
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

12. Details of the materials, colours and textures of all the external finishes to the proposed blocks and paved areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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. Alterations to the road network, including the widening of the public footpath on the south eastern side of Stephen Street Upper to achieve a consistent width and the provision of 14 number cycle stands adjacent to the proposed retail units on Aungier Street, shall comply with the requirements of the planning authority for such works and services.

Reason: In order to ensure a satisfactory standard of development in the interest of road safety.

15. 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.

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:

- (a) location of the site and materials compound(s) including area(s) identified 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 the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (e) measures to obviate queuing of construction traffic on the adjoining road network;
- (f) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (g) 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;
- (h) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (i) 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;
- (j) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and
- (k) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter 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.

17. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 amenities of property in the vicinity.

18. Prior to the first occupation of the student accommodation, all the cycle parking spaces shown on the submitted plans shall be provided and, thereafter, they shall be retained insitu for the duration of the student accommodation on site.

Reason: In order to promote and facilitate cycling as a sustainable mode of transport.

19. The residential accommodation in the proposal hereby permitted shall only be occupied as student accommodation, and for no other purpose, without a prior grant of planning permission for change of use.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

20. The studios in the student accommodation shall not be sold or let to persons other than current students of recognised third level institutions.

Reason: In the interest of clarity.

21. (a) Prior to the installation of signage for each of the uses in the development, details of such signage shall be submitted to, and agreed in writing with, the planning authority, and, thereafter, only the agreed signage shall be installed.

- (b) Apart from the signage agreed to under (a), notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any 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 planning permission.

Reason: In order to afford the planning authority control over signage in the interest of visual amenity.

22. Security roller shutters, if installed in the retail units, 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.

23. A management scheme, providing adequate measures for the future maintenance of the development, including the external fabric of the buildings, internal common areas, open spaces, landscaping, lighting, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority, before the student accommodation is made available for occupation.

Reason: To provide for the future maintenance of this development in the interest of amenity and orderly development.

24. 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 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.