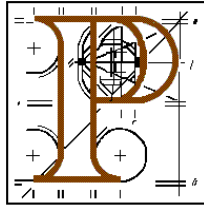


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Dublin City

Planning Register Reference Number: 3277/16

An Bord Pleanála Reference Number: PL 29S.247572

APPEAL by Curust Holdings Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dún Laoghaire, County Dublin and by Durrow House Partnership care of Simon Clear and Associates of 3 Terenure Road West, Terenure, Dublin against the decision made on the 20th day of October, 2016 by Dublin City Council to grant subject to conditions a permission to the said Durrow House Partnership in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Development consisting of demolition of all existing buildings within the site, construction of a four to six storey over part basement mixed use retail/commercial building to include retail unit at ground floor level fronting Baggot Street Upper; office use to the rear at ground floor level and a first to fifth floor levels, including ancillary staff facilities; office storage area, retail storage area, plant room and shower facilities at basement level; terrace/breakout space at fourth floor level to the rear and terrace at fifth floor level to the front addressing Baggot Street Upper; vehicular access from the existing access road to the rear (south-west) of the site via Flemings Place to undercroft car and cycle parking and all ancillary site works and services at 23-25 Baggot Street Upper and Durrow Mews, Flemings 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 planning history of the site, the pattern of development in the area and to the provisions of the current Dublin City Development Plan, it is considered that the proposed development, subject to compliance with the conditions set out below, would be acceptable in terms of the visual and architectural heritage amenities of the area 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 refuse permission, the Board noted the points raised by the Inspector as grounds for refusal but considered that the amendments to the design set out in the attached conditions satisfactorily addressed and resolved these matters.

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 23rd day of September, 2016 and by the appeal documentation received by An Bord Pleanála on the 16th day of November, 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. (a) The penthouse/fifth floor shall be set back as shown in drawing number AP-104 received by An Bord Pleanála on the 16th day of November, 2016.
- (b) The penthouse screen shall be retained as per the Original Application as shown in drawing number AP-201 received by An Bord Pleanála on the 16th day of November, 2016.
- (c) The rear building line shall be limited to grid line 4 on floors 3, 4 and 5 (refer to drawing number AP-301 received by An Bord Pleanála on the 16th day of November, 2016).

Revised drawings including these changes shall be submitted for the written approval of the planning authority prior to commencement of development.

Reason: In the interest of clarity and of the proper planning and sustainable development of the area.

3. Prior to the commencement of development, 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. A panel of the proposed finishes shall be placed on site to enable the planning authority adjudicate on the proposals. Any proposed render finish shall be self-finish in a suitable colour and shall not require painting. Construction materials and detailing shall adhere to the principles of sustainability and energy efficiency and high maintenance detailing shall be avoided.

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

4. 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.

5. The developer shall comply with the requirements of the planning authority with respect to on-site parking, cycle parking, site entrance details, signage and road markings which shall be ascertained and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of traffic safety.

6. 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.

7. The developer shall comply with the following requirements of the planning authority:
 - (a) the requirements set out in the separate Bye-Laws for the Collection, Storage and Presentation of both Household and Commercial waste and certain related waste management matters shall be adhered to and, in particular, the requirements in the Bye-Laws to segregate waste into separate fractions to facilitate the collection dry recyclable, organic kitchen/garden waste and residual waste;
 - (b) bins that comply with IS EN 840 1997 shall be used. Ideally, 1,100 litre bins shall be used with dimension of 1.3 metres long by 1 metre wide by 1.3 metres high and with a load capacity of approximately 0.5 tonnes. Other types of receptacles may only be used with the written consent of the planning authority;
 - (c) for commercial developments, there shall be enough storage space for a minimum of one number 1,100 litre bin per 10 bags to be collected. For apartment schemes, there shall be sufficient storage space for a minimum of one number 1,100 litre bin per fifteen people availing of the communal apartment collection scheme;
 - (d) sufficient space shall be provided to accommodate the collection of dry recyclable and organic kitchen waste/garden waste. Provision shall also be made for the collection of glass (separated by colour) in Bottle Banks within the curtilage of the development. The total footprint of each of these banks is four metres by two metres wide. The location shall be external, with the sufficient access and clearance for servicing using a crane;

- (e) the bin storage areas shall not be on the public street and shall not be visible or accessible to the general public;
- (f) the bin storage areas shall be designed so that each bin within the storage area is accessible to occupants/employees of the development (including people with disabilities);
- (g) suitable wastewater drainage points shall be installed in the bin storage area for cleaning and disinfecting purposes;
- (h) a waste collection contract must be signed with the planning authority or a private waste collector who is the holder of a Waste Collection Permit prior to the commencement of the collection of waste; and
- (i) sufficient access and egress shall be provided to enable bins to be moved easily from the storage area to an appropriate collection point on the public street nearby. The access and egress area shall have no steps and have a minimal incline ramp.

Reason: In order to ensure a satisfactory standard of development.

8. Notwithstanding the provisions of the Planning and Development Regulations, 2001, as amended, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting element shall be displayed or erected on the building or within the curtilage, or attached to the glazing without the prior grant of planning permission.

Reason: In the interests of visual amenity.

9. 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.

10. 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.

11. No external security shutters shall be erected on any of the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

12. 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.

13. Prior to the commencement of development, the developer shall lodge with the planning authority a deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance of services including maintenance until taken in charge by the local authority of roads, open spaces, car parks, public lighting, sewers, watermains and drains required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance 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. In the event that land to be used as open space is taken in charge, the title of any such land must be transferred to the planning authority at the time of taking in charge.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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 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 2017.