

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

**Limerick City and County**

**Planning Register Reference Number: 16/800**

An Bord Pleanála Reference Number: PL 91.247888

**APPEAL** by Brian Phelan of Apt 12A Riverfront, Howleys Quay, Limerick and by others against the decision made on the 20<sup>th</sup> day of December, 2016 by Limerick City and County Council to grant subject to conditions a permission to Kirkland Investments Limited care of Healy Partners Architects of The Mill, Glentworth Street, Limerick in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Demolition of the former ESB premises; demolition of rear annex, circa 1868, and demolition of 20<sup>th</sup> century staircase additions to number 104 Henry Street, known as 'The Bishop's Palace'; change of use of number 104 Henry Street, known as 'The Bishop's Palace,' from commercial use to residential use to provide seven number apartments, and all ancillary development works, including refurbishment and restoration of the building; change of use of the two-storey over basement building on Henry Street known as 'The Coach House' from commercial use to café/restaurant use and all ancillary development works, including refurbishment and restoration of the building; construction of a commercial building comprising 15 storeys over two basement levels fronting Lower Cecil Street and Bishop's Quay, and comprising four storeys fronting Henry Street, to provide 14,325 square metres approximately of office floor space overall and two number café/restaurant units; construction of a residential building comprising seven storeys over two basement levels fronting Bishop's Quay to provide 35 number apartments; replacement of an existing surface car-park to the front of number 104 Henry Street with a new public plaza; and public footpath upgrade works along Bishop's Quay, Lower Cecil Street and Henry Street; vehicular access serving the development via a proposed entrance

point on Lower Cecil Street; car parking spaces at ground floor level (Level 0) and two basement levels (Level -1 and Level -2); cycle parking spaces; communal and private open space to include a roof garden and gym pavilion to the residential building, a landscaped courtyard at podium level (Level 1) linking the new residential block with number 104 Henry Street, and balconies and removal of existing sub-station and provision of new sub-station within the development fronting Lower Cecil Street. The development will also include surface water attenuation tanks, general plant, storage areas, shower facilities and refuse management zones at basement level; signage, diversion of underground services, set-down areas and all related site development and excavation works above and below ground, all on a site of 0.4 hectares approximately at Bishop's Quay, Lower Cecil Street and Henry Street, Limerick City.

## **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 land use zoning objective of the site as set out in the current development plan for the area, the waterfront location of the site, and the pattern of development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of property in the vicinity or the visual amenities of the wider area, would not significantly impact on the character of the Bishop's Palace and adjoining Coach House, would improve the quality of the public realm, and would involve a sensitive re-use of an historic building worthy of preservation, thereby securing its future. 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 25th 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. The proposed development shall be amended as follows: -
  - (a) The metal clad superstructure of the proposed lift serving the Bishop's Palace shall be reduced in scale and footprint, such that it is set back from the edge of the current wallplate of the nineteenth-century addition of the building, in order to sit tight to the front of the lift shaft, and to ensure that the existing window in the attic gable is retained and allowed to remain in use. The junction of the lift superstructure and the stone coping at the main parapet shall be carefully detailed.
  - (b) The proposed door and frame, and associated ramped bridge in the north-most bay at ground floor level of the Bishop's Palace, proposed to be used as an entrance, shall be carried out in such a way as to reflect the historic character of the Bishop's Palace building. The materials to be used for the proposed bridge over the basement level shall be carried out in high quality materials.
  - (c) The external brick finishes of the proposed office block tower shall be omitted, and shall be replaced, on the elevation facing Bishop's Quay by a glazed finish similar to that proposed for the upper floors on this elevation, and by a cut stone or similar finish to the other elevations.
  - (d) The corten steel planters proposed to the Henry Street Plaza shall be omitted and replaced with paving.

- (e) The single cast iron, wrought iron and timber stable stall still in situ on the ground floor of the Coach House shall be preserved and incorporated into the redevelopment of the Coach House.
- (f) The northern chimneystack of the Bishop's Palace (with pots) shall be fully restored, and the minimum number of rooflights (which shall be solely of conservation standard) to provide natural daylight, shall be installed.
- (g) The existing CCTV and downlighters on the front elevation of the Bishop's Place shall be permanently removed.
- (h) The proposed lean-to roof from the new office structure to cover over the stone rear wall of the coach house shall be flashed against the stone wall and slope downwards to a gutter along the side of the new building.

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 interests of visual amenity and of protecting and enhancing the character of the Bishop's Palace and Coach House.

- 3. (a) The refurbishment works and conversion works to the Bishop's Palace and the Coach House, as modified by condition number 2 of this order, shall be carried out and completed prior to the making available for occupation of any other part of the development.
- (b) No part of the development shall be occupied until all landscaping and public realm proposals have been completed to the written satisfaction of the planning authority.

**Reason:** To regulate and control the progress and build-out of the overall development in order to ensure sustainable development of the historic buildings, upon which the overall development can be justified.

4. The developer shall engage the services of a Grade1 Conservation Architect or other qualified professional with similar specialised conservation expertise and experience, for the following purposes:
  - (a) to oversee the development of the detailed design for works to the interior and exterior of the Bishops Palace and Coach House,
  - (b) to oversee the implementation of the restoration of the Bishop's Palace and Coach House,
  - (c) to submit to the planning authority detailed design and method statements as required by the planning authority, and
  - (d) to certify to the planning authority on completion of works that best conservation practice has been followed throughout, and in compliance with condition 5 of this order.

**Reason:** To ensure protection of the special interest of these historic structures

5.
  - (a) All repair works to the Bishop's Palace and Coach House shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
  - (b) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.

**Reason:** To ensure that the integrity of the retained historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

6. Prior to commencement of all works to the Bishop's Palace and Coach House, including all demolition works to the outbuildings/extensions, the developer shall make a record of the existing structures. This record shall include:
  - (a) a full set of survey drawings to a scale of not less than 1:50 to include elevations, plans and sections of the structures, including the outbuildings/extensions, and
  - (b) a detailed, labelled photographic survey of all internal rooms (including all important fixtures and fittings), the exterior and the curtilage of the buildings.

One copy of this record, including all survey drawings and the photographic survey shall be submitted to the planning authority and one further copy of this record, the photographic survey and a full set of the survey drawings shall be submitted to the Irish Architectural Archive.

**Reason:** In order to establish a record of the Bishop's Palace and Coach House, prior to the carrying out of the proposed development.

7. The developer shall at all times be responsible for the erection of Flood Protection Measures around this building as set out in the submitted application and should not rely on the Local Authority provided protection. A flood risk mitigation plan shall be prepared and submitted to the planning authority at least two months before construction works are due to commence. The plan shall include a warning/trigger system, measures to mitigate against flooding (including measures to mitigate against risk to people, the premises and residual risks), as well as the persons responsible for the implementation of the mitigation measures. The flood risk mitigation plan shall be incorporated onto the overall management plan for the development.

**Reason:** In the interests of proper planning and sustainable development, and to obviate flood risk to the subject development.

8. Apart from the changes in the finishes specified in condition 2 (c) of this order, and prior to commencement of construction on site, 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.

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

9. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development, other than that shown on submitted drawings, shall take place at roof level, including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a prior grant of planning permission.

**Reason:** To protect the visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

10. A take-away element, that is, serving hot food for consumption off the premises, is not permitted as part of the permitted use. This grant of planning permission is for a sit down restaurant only. Any deviation from the use as granted will require a subsequent grant of planning permission.

**Reason:** In the interest of orderly development and City Centre amenity.

11. 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 and to ensure a proper standard of development.

12. The basement car parking spaces shall be provided at the developer's expense with electric charging points, to details to be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable development.

13. At least one car parking space shall be allocated to each individual residential unit and shall be reserved for use by the residents of the proposed apartments. They shall not be sold, leased or otherwise transferred or conveyed separate from the apartments to which they are assigned. The remainder of the car parking spaces shall be reserved solely to serve the use of the proposed office and commercial elements of the development, and shall not be sold, rented, sub-let or leased to other parties, or otherwise assigned separate to the use to serve the development.

**Reason:** To prevent inappropriate parking and in the interests of residential amenity and of sustainable transport.

14. Details of signage for the proposed commercial units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, and notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no further advertisement signs (including any signs installed to be visible through windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on any of the proposed building or within the curtilage of the site, unless authorised by a further grant of planning permission. No signage of any kind shall be erected on the exterior of the Bishop's Palace.

**Reason:** In the interests of visual amenity and orderly development and to permit the planning authority to assess any such development through the statutory planning process.



15. 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 noise management measures, arrangements for construction-related vehicle parking, and arrangements for delivery of materials to the site during construction and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

16. Proposals for a development name and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the name sign(s), and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

**Reason:** In the interest of urban legibility, and to ensure the use of locally appropriate placenames for new developments.

17. The management and maintenance of the proposed residential part of the subject development, following completion, shall be the responsibility of a legally constituted management company. 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, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority, before any of the residential units are made available for occupation.

**Reason:** To provide for the future maintenance of the residential element of the proposed development in the interest of residential amenity and orderly development.

18. 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 Limerick/Clare/Kerry Region.

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

19. 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 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 residential amenities of property in the vicinity.

20. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

21. 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 provision and satisfactory completion of all footpaths (including the proposed public realm area on Henry Street), access ways, watermains, drains, open spaces 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.

22. 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.

23. The developer shall pay the sum of €4,000 (four thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of respect of the necessary alteration and re-validation of the metro area AUTC vehicle detection systems at Henry Street and Lower Cecil Street and Bishops Quay and configuration and modification of systems in station apparatus to enable construction and operation of the development. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

**Dated this            day of            2017.**