



An
Bord
Pleanála

Board Order

PL 29S.247947

Planning and Development Acts 2000 to 2016

Planning Authority: Dublin City Council

Planning Register Reference Number: 2701/16

Appeal by Luxor Investments Limited care of McCarthy Keville O'Sullivan Limited of Block 1, G.F.S.C, Moneenageisha Road, Galway and by An Taisce of Tailors' Hall, Back Lane, Dublin against the decision made on the 9th day of January, 2017 by Dublin City Council to grant subject to conditions a permission to Wave Point Limited care of O'Connor Whelan Limited of 222-224 Harold's Cross Road, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a 136 bedroom, four star hotel in a seven storey block, over partial basement comprising: (1) demolition of the existing warehouse building on the site (gross floor area of 802 square metres); (2) a 136 bedroom hotel including a public bar (194 square metres) and restaurant (184 square metres) and other ancillary facilities such as kitchen, gym, storage areas, bin stores, plant rooms, reception area, administration offices, a meeting room, all totalling 5,699 square metres including an ESB substation (6 square metres); (3) 10 number internal bicycle spaces and (4) associated plant, infrastructural connections and site development works, all on 909 square metres site at 21 Ship Street Great, Dublin, as amended by the further public notice received by the planning authority on the 5th day of December, 2016.

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 provisions of the Dublin City Development Plan 2016-2021, and to the nature, and scale of the proposed development, it is considered that, subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity or give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the Further Information received by the planning authority 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 glazed feature on the north facing elevation shall be omitted and replaced with a solid panel.
 - (b) The projecting rear windows shall be modified so that the northwest facing side panels are fitted permanently in opaque glazing.
 - (c) A 1.4 metre railing shall be erected separating the rear terrace to Le Pole Square.

Revised plans showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority before development commences.

Reason: In the interest of orderly development, to enhance the visual character of the streetscape, and to protect residential amenity.

3. Details, including samples 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 prior to commencement of development.

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

4. Prior to commencement of development, proposals for signage on the façade of the development (which shall not be above first floor level) and the exact location of the historical wall plaque shall be submitted to, and agreed in writing with, the planning authority. No signage shall be erected on the northern (side) wall of the proposed development.

Reason: In the interest of orderly development.

5. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site other than signage agreed under condition number 4 of this Order, or unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

6. The developer shall comply with the following archaeology requirements:
 - (a) Prior to commencement of development, the developer shall retain a licensed archaeologist to carry out the archaeological requirements of the City Archaeologist.
 - (b) No construction or site preparation work may be carried out on the site until all archaeological requirements of the City Archaeologist are complied with.

- (c) The plaque indicating the former entrance to the church and graveyard of Saint Michael Le Pole should be removed and re-erected (in the same or suitable position) on the façade of the proposed development.
- (d) An archaeological method statement for impact mitigation including temporary and enabling works shall be agreed in advance with the City Archaeologist.
- (e) Where impact is unavoidable, all in-situ features, including post medieval, must be fully recorded prior to removal by hand excavation (unless methodology otherwise agreed).
- (f) Once archaeological layers have been exposed, the ground shall be reduced as an archaeological exercise using archaeological hand excavation techniques. In the event of in-situ articulated human remains or other significant archaeological deposits being located during the course of this work, the archaeologist retained by the developer shall immediately notify the City Archaeologist and The National Monuments Service. Should such archaeological features be of great significance in the opinion of the National Monuments Service their preservation in-situ shall be required. This may negate, or curtail, aspects of the development, and any amendments to the development shall be submitted to, and agreed in writing with, the planning authority where appropriate.
- (g) The ground shall be reduced to the base of the archaeological deposits.
- (h) A finds-retrieval strategy shall be developed by the licensed archaeologist and shall be submitted to, and agreed in writing with, the planning authority and with the National Monuments Service.

- (i) The developer shall fund the post-excavation work and sufficient resources allocated to ensure that correct archaeological procedures are adhered to.
- (j) The developer shall fund the public dissemination of the findings of archaeological investigations and excavations in accordance with details which shall be submitted to, and agreed in writing with, the planning authority.
- (k) A written and digital report (on compact disc) containing the results of the archaeological excavation and post-excavation shall be submitted on completion to the planning authority and to the National Monuments Service.
- (l) Following submission of the Final Report to the City Archaeologist, the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City Archaeological Archive Guidelines (2008 Dublin City Council) and lodged with the Dublin City Library and Archive or with another appropriate repository to be otherwise agreed in writing with City Archaeologist within two years of excavation completion.

Reason: In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

- 7. (a) 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 and off-site disposal of construction/demolition waste.
- (b) Cycle parking shall be secure and well lit.

- (c) All costs incurred by the planning authority including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: In the interest of traffic safety and orderly development

- 8. (a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeqT.
- (b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedence criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.
- (c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either
 - (i) during a temporary shutdown of the specific noise source, or
 - (ii) during a period immediately before or after the specific noise source operates.
- (d) When measuring the specific noise, the time (T) shall be any five minute period during which the sound emission from the premises is at its maximum level.
- (e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. An acoustical analysis shall be included with this submission to the planning authority.

Reason: To protect the residential amenities of property in the vicinity.

9. Water supply and drainage arrangements, including the disposal of surface water and internal basement drainage, shall comply with the requirements of the planning authority for such works and services as appropriate.

Reason: In the interest of public health and to ensure a proper standard of development.

10. 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.

11. An asbestos survey shall be carried out on the warehouse to be demolished. Any asbestos containing materials (ACM) identified shall be removed by a licenced waste contractor.

Reason: In the interest of public health and to ensure a proper standard of development.

12. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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: To safeguard the residential amenities of adjacent dwellings.

13. 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.

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. The application of any 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 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.

