



An
Bord
Pleanála

Board Order

PL 29S.248136

Planning and Development Acts 2000 to 2016

Planning Authority: Dublin City Council

Planning Register Reference Number: 4280/16

Appeal by An Taisce of Tailors' Hall, Back Lane, Dublin against the decision made on the 9th day of February, 2017 by Dublin City Council to grant subject to conditions a permission to Luxor Investments Limited care of McGill Planning Limited of 7 Fitzwilliam Street Upper, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Development comprising the demolition of all existing structures on site and the construction of a mixed-use development with a total gross floor area of 17,084 square metres and up to a height of 20 metres (31.250m OD). The development includes the construction of: (1) a six-storey, mixed use development ranging in height from five residential storeys over commercial ground floor onto Chancery Lane and the new Le Pole Square, with four residential storeys over two floors of commercial development facing onto Ship Street Great; (2) a new pedestrian street running west to east between Chancery Lane and Ship Street Great and the creation of a heritage open space at La Pole Square which will be open to the public during designated hours; (3) a convention centre over two storeys with associated back up servicing, break-out spaces, and pre-conference facilities. The main conference hall which extends to 818 square metres is supported by a pre-conference lobby, which extends to 936 square metres including circulation, reception, bar area, cloaks, toilet facilities, kitchens and storage spaces. The upper floor of the convention centre comprises meeting rooms and break-out spaces of 770

square metres area and includes circulation, toilet facilities and reception areas; (4) an exhibition gallery which extends to 161 square metres at ground floor level accessed from Le Pole Square and 127 square metres at lower ground floor level which is accessible via Ship Street Great; (5) a café extending to 118 square metres at ground floor level with dual access from the proposed Le Pole Square and the proposed pedestrian link off Chancery Lane; (6) a residential development of 86 number apartment units over five floors, consisting of 16 number three beds, 43 number two beds and 27 number one bed ranging in size from 51.3 square metres to 115 square metres, private balconies/terraces provided on all elevations, communal open space provided by means of an internal courtyard at a raised podium level and roof gardens at upper levels; (7) vehicular access is proposed via a ramped entrance from Ship Street Great and cyclist access is proposed via a dedicated lift from Chancery Lane, 18 number cycle racks will be provided in the proposed Le Pole Square; (8) a double basement is proposed to accommodate the provision of boiler/ancillary plant facilities, residential and commercial storage, kitchen preparation area/office and storage, staff changing room, 65 number parking bays, 90 number cycle racks, cyclist shower room and residential and commercial refuse storage; (9) the provision of an ESB substation accessed from Chancery Lane and all other associate ancillary works and (10) all associated site development, servicing and landscaping works, all on a site which extends to 3,848 square metres at Chancery Lane and Ship Street Great, Dublin. The site is bounded by the Chief State Solicitors Office building to the north, by Ship Street Great to the east, to the south by the exiting Radisson Hotel and commercial buildings and to the west by Chancery Lane. The application site forms part of a larger landholding which includes land immediately adjacent to the proposed site which is currently under consideration by the planning authority under planning application register reference number 2962/16.

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 development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 developer shall comply with the following requirements in relation to Le Pole Square:

- (a) Prior to the commencement of the development, a detailed landscaping plan for Le Pole Square shall be agreed in writing with the planning authority.
- (b) This landscaping plan shall include details of a commemorative feature for the former Round Tower (Recorded Monument).
- (c) Prior to the occupation of the development, Le Pole Square shall be fully completed and landscaped in accordance with the agreed landscaping plan, to the written satisfaction of the planning authority.
- (d) The pedestrian accesses from Le Pole Square to Chancery Lane and Ship Street Great shall be maintained, well-lit and any gates shall remain open for day time hours which shall be agreed in writing with the planning authority prior to the occupation of the development.

Reason: In the interests of orderly development, residential and visual amenity, permeability and to ensure the civic amenity of the urban space.

- 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 façades of the development, shopfront details and any historical wall inscriptions shall be submitted to, and agreed in writing with, the planning authority.

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, other than signage agreed in writing under condition number 4 of this permission shall be displayed or erected on the building or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

6. The landscaping scheme for the courtyard shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

7. The developer shall comply with the following archaeology requirements:
 - (a) The developer shall retain a licensed archaeologist to carry out the archaeological requirements of the City Archaeologist.
 - (b) The developer's archaeologist shall adhere to and further develop the archaeological mitigation strategy outlined in the archaeological report in consultation with the City Archaeologist and the relevant statutory authorities.

- (c) No construction or site preparation work may be carried out on the site until all archaeological requirements of the City Archaeologist are complied with.
- (d) The project shall have an archaeological assessment (and impact assessment) of the proposed development, including all temporary and enabling works, geotechnical investigations, that is, boreholes, engineering test pits, etc., carried out for this site as soon as possible and before any site clearance/construction work commences.
- (e) Archaeological testing shall be undertaken in the northwest portion of the site and the southwest dog-leg of the proposed basement where the works abut the neighbouring development.
- (f) An archaeological method statement for impact mitigation including temporary and enabling works shall be agreed in advance with the City Archaeologist.
- (g) 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).
- (h) 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 their preservation in-situ shall be required. This may negate, or curtail, aspects of the development, and any amendments to the development shall be subject to the written agreement of the planning authority where appropriate.

- (i) The ground shall be reduced to the base of the archaeological deposits.
- (j) A finds-retrieval strategy shall be developed by the licensed archaeologist and submitted for agreement with the National Monuments Service and the City Archaeologist.
- (k) The developer shall fund the post-excavation work and sufficient resources allocated to ensure that correct archaeological procedures are adhered to.
- (l) The developer shall fund the public dissemination of the findings of archaeological investigations and excavations.
- (m) A written and digital report (on compact disc) containing the results of the archaeological excavation and post-excavation shall be submitted on completion to this office and to the National Monuments Service.
- (n) 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 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.

8. The developer shall comply with the following roads and traffic requirements:
- (a) Prior to commencement of development, and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, noise management measures and off-site disposal of construction/demolition waste.
 - (b) Prior to commencement of development, the developer shall agree details of the materials proposed in public places with the Council's Roads Maintenance Division.
 - (c) Two number car parking spaces within the development shall be made available for use by an official car club. The remaining car parking spaces shall be permanently allocated to the residential units within the development and shall not be sold, rented or otherwise sub-let or leased to other parties.
 - (d) Cycle parking shall be secure, conveniently located and well lit.
 - (e) 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.
 - (f) The developer shall be obliged to comply with the requirements set out in the planning authority's Code of Practice for such works.

Reason: In the interest of traffic safety and orderly development.

9. Noise levels from the development shall not be so loud, so continuous, so repeated of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place.

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

10. 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.

11. The management of waste during the construction and operational phases of the development, 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.

12. 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.

13. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

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

14. The site works, building works and deliveries of materials, plant or machinery required to implement the development shall be carried out only between 07.00 hours and 18.00 hours, Monday to Friday and between 08.00 hours and 14.00 hours on Saturdays and not at all on Sundays or Bank Holidays.

Reason: To safeguard the residential amenities of adjacent dwellings.

15. 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.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

17. Appropriate childcare facilities, in accordance with “Childcare Facilities: Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in June 2001, shall be provided and shall be the subject of a separate application for planning permission to the planning authority.

Reason: To comply with the provisions of these Guidelines.

18. 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.

19. 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 roads, footpaths, watermains, drains, open space 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.

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

Dated this day of 2017