



An  
Bord  
Pleanála

**Board Order**

**PL 29S.248181**

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## **Planning and Development Acts 2000 to 2016**

**Planning Authority: Dublin City**

**Planning Register Reference Number: 3847/16**

**Appeal** by House of Ireland Limited care of Auveen Byrne and Associates of Lioscarran House, 32 Dale Road, Kilmacud, Stillorgan, County Dublin and by Irish Clearing House Limited care of RPS Group Limited of West Pier Business Campus, Dun Laoghaire, County Dublin against the decision made on the 21st day of February, 2017 by Dublin City Council to grant subject to conditions a permission to Kells ICAV care of Declan Brassil and Company Limited of Lincoln House, Phoenix Street, Smithfield, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Development comprising the demolition of all existing structures on site, together with site clearance works and the construction of a new mixed used building of part 4-, part 5- and part 6-storey height (incorporating setback levels) with a total gross floor area (GFA) of 22,837 square metres of which 16,505 square metres of floor space are provided above ground floor level, over a double basement (6,332 square metres). Open air rooftop plant is provided at roof level (32m OD) that is obscured by screens measuring approximately two metres in height to a finished level of 34.05m OD (or 27.65 to 27.85 metres above the varying adjacent ground level). A total of 7,728 square metres (GFA) of retail space arranged over three floors at lower ground level, ground level and first floor level. A total of 11,388 square metres (GFA) of office floor space is proposed that is arranged over four floors at second floor level and above. The main office entrance and lobby is

provided at the southern end of the site onto Dawson Street. A secondary access/egress to the office accommodation serving the upper levels of the building is proposed at the western end of the site fronting Nassau Street. The existing vehicular access onto Dawson Street will be closed and the existing access off Duke Lane will be retained to service the development via a centrally located service yard at the rear of the building from where the basement levels of the building are accessed via two (2) number car lifts and a goods lift to serve retail units at lower ground level and the basement level which contain 50 number car parking spaces, 172 number bicycle parking spaces, ancillary staff changing facilities and ancillary plantrooms. A number of roof terraces are proposed at second, fourth and fifth floor level to the northern, eastern, western and southern elevations of the proposed building to include one west facing terrace at second floor level, two north facing and one west/south facing terraces at fourth floor level and one north facing, one north east facing, one east facing and one east/south facing terrace at fifth floor level. The proposed building incorporates sustainable urban drainage measures, including the provision of green roofs, attenuation tank and rainwater harvesting system together with all associated site development works, all at 60-63 Dawson Street and 3 Duke Lane (Hibernian House), 64-65 Dawson Street and 34-39 Nassau Street (Hibernian Corner) and 40-43 Nassau Street (Nassau House), Dublin (on a site measuring approximately 0.36 hectares in extent).

## **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 Dublin City Development Plan 2016-2012 in which zoning objective for the area is Z5: providing for the consolidation and facilitation of the development of the central area, and in particular, Policy RE22 providing for the promotion of retail and office development with larger floor plates and quantum for indigenous and FDI headquarters to increase competitiveness in the city centre;
- the sensitive established character of the mix of historic and contemporary buildings in the streetscape in the vicinity of and adjacent to several protected structures, within a Conservation Area and, to the position of the frontage of the site on Dawson Street within the statutory South Retail Quarter Architectural Conservation;
- to the identification of part of the site as a potential development site in the Retail Core Framework Plan and,
- to the form, mass, height, materials, finishes, design detail and efficiency and effectiveness of the proposed services for the building in the management of energy and water supply and discharge, and
- the extent and nature of the proposed uses for the building,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the development objectives for the area, would integrate with the surrounding existing and would not detract from the visual amenities or established character and pattern of development in the area, would not endanger public safety by reason of obstruction and traffic hazard and 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 plans and particulars submitted to the planning authority on the 25th day of January, 2017, 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. Prior to the commencement of the development, the developer shall comply with the following requirements of Transportation Infrastructure Ireland and agreed in writing with the planning authority. Any works involved shall be undertaken at the applicant's own expense:
  - (a) The development shall be in accordance with the requirements of "Code of Engineering Practice for Works on, near or adjacent to the LUAS Light Rail System" (Transportation Infrastructure Ireland).
  - (b) A works permit shall be obtained prior to commencement of any works in close proximity to the light rail Overhead Conductor System (OCS).
  - (c) With regard to all interfaces with the Light Rail System infrastructure, the applicant shall provide for and adhere to the following requirements:
    - (i) temporary supports shall be provided to support the Overhead Conductor System (OCS) following demolition of the building at numbers 60–63 Dawson Street which has fixings for the Overhead Conductor System at the applicant's expense,
    - (ii) construction traffic shall not directly access to and from Dawson Street,

- (iii) settlement and vibration monitoring shall be carried out in accordance with “Code of Engineering Practice for Works on, near or adjacent to the LUAS Light Rail System” (Transportation Infrastructure Ireland), and
  - (iv) hoarding and scaffolding shall be erected throughout demolition and construction following consultation with the LUAS operation.
- (d) Submission of full details of interface points to LUAS cross City public realm and reinstatement works, utilities and services coordination with the LUAS Cross City works and system for agreement in writing with the planning authority in consultation with the Transport Infrastructure Ireland.

**Reason:** In order to avoid conflict with works involved in the construction of the Luas Cross City light rail network.

3. The construction of the development shall be managed in accordance with a construction management plan, and a construction traffic management plan which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and shall include provision for the following requirements:
- (a) Inspection of the existing structures prior to demolition by an ecologist and/or bat ecologist to establish whether bats or breeding birds are present. Demolition shall not take place during the breeding season of February to August and it is necessary for bats to be removed, a derogation licence shall be obtained in advance from the National Parks and Wildlife Service.
  - (b) Incorporation of provision for the requirements of Transportation Infrastructure Ireland in connection with the LUAS Cross City Light Rail project provided for in condition number 2.
  - (c) The construction traffic management plan shall exclude construction traffic access to the site via Dawson Street and contain comprehensive details for alternative routing.

- (d) Comprehensive survey and methodology for the removal and disposal of asbestos and other hazardous materials, if any in the existing structures and full details of intended construction practice for the development and noise and dust control and management measures.

**Reason:** In the interest of clarity, public safety, orderly development, and the amenities of the area.

4. 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. Details of waste to be generated during site clearance and construction phases, and 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 shall also be included.

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

5. A panel displaying samples of the proposed materials, textures and colours of all proposed external finishes shall be displayed on site following demolition and site clearance. Details of all external finishes shall be agreed in writing with the planning authority prior to construction.

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

6. Site development and building works shall be confined to the hours of 0700 hours and 1800 hours Mondays to Fridays excluding bank holidays and 0800 hours and 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In the interest of the amenities of property in the vicinity.

7. The proposed fascia signage shall be permanently omitted from the development. Name/letter signage for each individual unit shall be confined to a position in height to the main entrance signage, in the form of an internal hanging sign or similar, the detail of which shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the building.

**Reason:** In the interests of visual amenity.

8. Apart from signage agreed with the planning authority under condition number 7 of this Order, no further 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 unless authorised by a further grant of permission.

**Reason:** In the interest 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 interest of visual amenity.

10. A single specified interior blind system shall be agreed with the planning authority in writing and shall be installed throughout the entire building complex.

**Reason:** In the interest of orderly development and the uniform presentation of the building in the streetscape, especially at night.

11. The developer shall comply with the following requirements of the Archaeology Division:

- (a) No construction or site preparation work shall be carried out on the site until all archaeological requirements of the City Archaeologist are complied with.

- (b) 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. The assessment shall be prepared by a suitably qualified archaeologist and shall address the following issues.
- (i) the archaeological and historical background of the site, to include industrial heritage,
  - (ii). a paper record (written, drawn, and photographic, as appropriate) of any historic buildings and boundary treatments, etc.,
  - (iii) the nature, extent and location of archaeological material on site by way of archaeological testing and/or monitoring of the removal of overburden, and
  - (iv) the impact of the proposed development on such archaeological material.
- (c) The archaeologist shall forward their Method Statement in advance of commencement to the City Archaeologist.



- (d) Where archaeological material is shown to be present, a detailed Impact Statement shall be prepared by the archaeologist which shall include specific information on the location, form, size and level (corrected to Ordnance Datum) of all foundation structures, ground beams, floor slabs, trenches for services, drains etc. The assessment shall be prepared on the basis of a comprehensive desktop study and, where appropriate/feasible, trial trenches excavated on the site by the archaeologist and/or remote sensing. The trial trenches shall be excavated to the top of the archaeological deposits only. The report containing the assessment shall include adequate ground-plan and cross-sectional drawings of the site, and of the proposed development, with the location and levels (corrected to Ordnance Datum) of all trial trenches and/or bore holes clearly indicated. A comprehensive mitigation strategy shall be prepared by the consultant archaeologist and included in the archaeological assessment report.
- (e) No subsurface work shall be undertaken in the absence of the archaeologist without his/her express consent. The archaeologist retained by the project to carry out the assessment shall consult with the City Archaeologist in advance regarding the procedure to be adopted in the assessment.
- (f) A written and digital report (on compact disc) containing the results of the archaeological assessment shall be forwarded on completion to the City Archaeologist. The City Archaeologist (in consultation with The National Monuments Service, Department Arts Heritage and Gaeltacht), shall determine the further archaeological resolution of the site.
- (g) The developer shall comply in full with any further archaeological requirement, including archaeological monitoring, and if necessary archaeological excavation and/or the preservation in situ of archaeological remains, which may negate the facilitation of all, or part of any basement.

- (h) The developer shall make provision for archaeological excavation in the project budget and timetable.
- (i) Before any site works commence, the developer shall agree the foundation layout with the City Archaeologist.
- (j) Following submission of the final report to the City Archaeologist, where archaeological material is shown to be present, 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.

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

12. The developer shall comply with the following requirements of the planning authority:
- (a) the developer shall undertake to implement the measures outlined in the Travel Plan submitted with the application and ensure that future tenants the proposed development comply with this strategy. A Mobility Manager for the overall scheme shall be appointed to oversee and co-ordinate the preparation of individual plans, and
  - (b) the proposed car lifts shall give priority to vehicles entering the site at peak hours in order to prevent queuing on the public laneway.

**Reason:** To ensure a satisfactory standard of development.

13. No development other than that which is shown in the application 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, without a prior grant of planning permission.

**Reason:** In the interest of visual amenity.

14. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development, including the external fabric of the buildings, internal common areas, landscaping, roads, paths, 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 commercial units are made available for occupation.

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

15. Drainage arrangements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. The requirements for the management of storm water shall include the incorporation of Sustainable Drainage System implementation of the proposed arrangements in the Site Flood Risk Assessment submitted to the planning authority with the application.

**Reason:** To ensure adequate servicing of the development and to prevent pollution.

16. 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 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 is applied to the permission.

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

Dated this       day of                                2017