



An  
Bord  
Pleanála

**Board Order**

**PL 29N.248726**

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## **Planning and Development Acts 2000 to 2017**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 4262/16**

**Appeal** by The Rathdown Road and District Residents Association of 4 Charleville Road, Phibsborough, Dublin and by others against the decision made on the 25<sup>th</sup> day of May, 2017 by Dublin City Council to grant subject to conditions a permission to Ziggurat ROI NO 1 LP care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a student accommodation development with 444 number bedspaces (420 number bedrooms) with a gross floor area of 16,389 square metres contained within nine number blocks which range in height from one number storey to seven number storeys with a single storey basement under Block E. All of the blocks (except for Block A, B and D) contain balconies. The proposal includes the refurbishment, change of use and extension of the single storey gate lodge to the north of the site from residential dwelling to student accommodation providing four number bedrooms. The gross floor area of the gate lodge will increase from 67.7 square metres to 145 square metres. The proposed development includes a number of outdoor amenity areas and indoor ancillary services for occupants at ground floor level of Block E. 11 number surface car parking spaces and refuse store are proposed on the western boundary with 210 number sheltered bicycle spaces proposed at surface level distributed throughout the site. The proposed development is to be used for student accommodation or accommodation related to a Higher Education Institute only during the academic

year and student accommodation or accommodation related to a Higher Education Institute or tourist/visitor accommodation only during academic holiday periods. Access to the development for vehicles and pedestrians is to be via the existing site access from North Circular Road, with access for pedestrians also provided via the existing gates onto the laneway from Rathdown Road. Permission is also sought for all ancillary engineering works, plant, storage, hard and soft landscaping, boundary treatments, site development works necessary to facilitate the development, including the provision of an ESB substation and switch room on the ground floor of Block E, all on circa 1.3635 hectare site located at 274 North Circular Road, Dublin. The site also has frontage to the existing public laneway located off Rathdown Road (between 25A and 51 Rathdown Road).

## **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 2016-2022, to the planning history of the site, to the design, scale and nature of the proposed development and to the location of the site in proximity to third level institutions, and having regard to national policy in relation to the provision of student accommodation, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the development plan, would not seriously injure the residential amenities of property in the vicinity, would not adversely affect the visual amenities of the area or impact on the character of the nearby Architectural Conservation Area, would not result in an overconcentration of student accommodation in this area, would provide an acceptable standard of amenity for future occupants and would be acceptable in terms of pedestrian and traffic safety. 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 28<sup>th</sup> day of April, 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. The proposed development shall be amended as follows: -
- (a) The glazing of all windows on the first and second storey of the western elevation of Block D shall be fitted with permanently obscured glass.
  - (b) Green roofs accessible from upper storey balconies/terraces shall be rendered inaccessible and divided by permanently obscured glass screens or solid partitions of a suitable height, to details to be agreed in writing with the planning authority.
  - (c) The vehicular access gates at the North Circular Road entrance shall be re-located at least six metres away from the public road, and shall be designed so as not to open outwards towards that road. At the vehicular access/exit point to the development, the public footpath shall be continued at a raised level across the site entrance and exit, but shall be ramped and dropped as necessary (e.g. 32 millimetres kerb over carriageway) to facilitate car entry/exit. Measures shall be implemented, including contrasting materials, signing and road markings etc., to ensure that vehicles entering/leaving the development are aware that pedestrians/cyclists have priority access across the site entrance and that vehicles must yield right of way.

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 residential amenity and of pedestrian and traffic safety.

3. The residential accommodation of the development hereby permitted shall be used solely for the purposes of student accommodation, as defined in Section 13 (d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, and for no other purpose, without a prior grant of planning permission for change of use. The student accommodation and complex shall be operated and managed in accordance with the measures indicated in the Student Accommodation Management Plan submitted with the application, as amended by condition 4(b) of this permission.

**Reason:** In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

4.
  - (a) Full details of a legally incorporated management company which shall be responsible for the future maintenance and upkeep of all services within the development site including drains, sewers, watermains, public lighting, paths, roads, open spaces and refuse storage areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
  - (b) A revised site specific Student Accommodation Management Plan for the development, which shall ensure the provision of residential 24-hour on-site management of the units, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the amenities of occupiers of the units and surrounding properties.

5. The 600 millimetres diameter surface water sewer on Grangegorman Road as part of the Grangegorman Development Agency's works shall be extended to the proposed development, as part of the development works, as indicated on drawings numbers A064-010 and A064-011, submitted to the planning authority on the 28<sup>th</sup> day of April 2017.

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

6. 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.

7. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity, and to permit the planning authority to assess all signage on this site through the statutory planning process.

8. Details of the upgrading of the public laneway from Rathdown Road to the proposed pedestrian access to the site shall be submitted to, and agreed in writing with, the planning authority before development commences. These works shall be completed before the proposed student accommodation is made available for occupation.

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

9. 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 prior to commencement of development.

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

10. Comprehensive details of the proposed lighting system to serve the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All lighting shall be cowled to avoid any light spillage onto adjoining properties. The agreed lighting system shall be fully implemented and operational, before the proposed student accommodation is made available for occupation.

**Reason:** In the interest of public safety and visual amenity.

11. Site development and building works shall be carried out only between the hours of 0800 to 1800 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:** In order to safeguard the amenities of property in the vicinity.

12. The internal road network serving the proposed development, including turning bays, parking areas, cycle parking facilities, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such works.

**Reason:** In the interests of amenity and of pedestrian and traffic safety.

13. Prior to the commencement of development, the developer shall submit a construction and demolition waste management plan to the planning authority for agreement 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. This 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.

**Reason:** In the interest of orderly development and sustainable waste management.

14. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.



- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

15. Prior to commencement of development, a detailed specification of planting shall be submitted to, and agreed in writing with, the planning authority. The agreed specification shall be fully implemented in the first available planting season following either the substantial completion of the development or the first occupation of the student accommodation, whichever is sooner. All plants shall be adequately protected until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years, 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 visual amenity.

16. No additional development shall take place above roof parapet level of any of the proposed buildings, 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 amenities of property in the vicinity and the visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

17. No part of the proposed terrace of student apartments Block B (including fascias and gutters) shall bear on or oversail the adjoining properties or rear laneway to those properties on the western side of Rosemount Road.

**Reason:** To protect the amenities of adjoining properties.

18. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

19. Prior to the first occupation of the student accommodation, all the cycle parking spaces shall be provided and, thereafter, shall be retained in-situ for the duration of the student accommodation on site.

**Reason:** In order to promote and facilitate cycling as a sustainable mode of transport.

20. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and for the ongoing operation of these facilities.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

21. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

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

22. 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.

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

23. 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.

24. The developer shall pay to the planning authority a financial contribution in respect of 'Luas Cross City (St. Stephen's Green to Broombridge Line)' in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

25. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the full costs of the upgrading works to the public laneway from Rathdown Road to the pedestrian entrance, as required by condition number 8 of this permission. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be 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.

