



An
Bord
Pleanála

Board Order PL 29S.249415

Planning and Development Acts 2000 to 2017

Planning Authority: 29S.249415

Planning Register Reference Number: 2711/17

Appeal by The Board of Management of City Quay National School care of Fitzgibbon McGinley Architects Limited of First Floor, Unit W1G, Ladytown Business Park, Naas, County Kildare against the decision made on the 21st day of September, 2017 by Dublin City Council to grant subject to conditions a permission to Brigante Investments Limited care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Development consisting of the demolition of all building and structures on site (circa 4,065 square metres gross floor area (GFA) and the development of an eight storey (with partial seventh floor level setback for balconies) hotel of circa 10,688 square metres gross floor area (comprising 393 number bedrooms and related hotel facilities including reception area, lounge, kitchen, bin store, switch room and ESB substation) over basement plant level (157 square metres); an eight storey (with partial seventh floor level setback for balconies) aparthotel of circa 5,412 square metres gross floor area (comprising 136 number studios/suites and related aparthotel facilities including reception area, bin store, switch room and ESB substation) over basement plant level (63 square metres); an eight storey (with seventh floor level setback for balconies) aparthotel of circa 2,875 square metres gross floor area (comprising 66 number studios/suites and lobby area) over ground floor restaurant unit (482 square metres) and basement plant level (136 square metres); an eight storey apartment block of circa 2,068 square metres gross floor area comprising 21 number apartment units in a mix of 14 number one bed and 7 number two bed units (with associated enclosed bicycle parking, bin store at ground floor) and ground floor retail unit (110 square metres); plant room and screened plant at roof level. The development will also include: vehicular and pedestrian access via Moss Street (onto Bracken's Lane) and Gloucester Street South and pedestrian access via Townsend Street; cycle parking, associated lighting; associated signage; associated site servicing (foul and surface water

drainage and water supply); solar panels; the provision of SuDS measures (including attenuation tank below ground and sedum roofs). The scheme also includes: all hard and soft landscaping; boundary treatments; changes in level; and all other associated site excavation and site development works above and below ground on a site of circa 0.4 hectares at numbers 44-53 Townsend Street, 33-39 Moss Street, 31-33 Gloucester Street South and including Bracken's Lane, Dublin.

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

In coming to its decision, the Board had regard to the following:

- the site's location in Dublin city centre, within an established built-up area on lands with zoning objective Z5 City Centre '*to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity*' in the Dublin City Development Plan 2016-2022;
- the policies set out in the Dublin City Development Plan 2016-2022;
- the provisions of the George's Quay Local Area Plan 2012;
- the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued in March 2018;

- the provisions of the National Planning Framework; Ireland 2040 (2018) and Ministerial Guidelines issued March, 2018;
- the planning history within the area;
- the pattern of existing and permitted development in the area;
- the third party submissions and observations received; and
- the report of the Inspector,

it is considered that, subject to compliance with the conditions as set out below, the proposed development would constitute an acceptable design response to the site and wider context, would represent an appropriate mix of uses in this urban location, would not seriously injure the residential or visual amenities of the area, would not detract from the character of the urban quarter, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of pedestrian and traffic safety and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board concurred with the planning authority's analysis and considered that the demolition of the number 44 Townsend Street (Ned's) and Moss Street tenements which are not listed on the record of Protected Structures was acceptable in terms of conservation best practice subject to a record being made of the existing buildings of historical note and would not diminish the character, appearance or quality of the local streetscape or urban quarter. The Board considered that the height of the proposed development would be in accordance with the site specific zoning of the George's Quay Local Area Plan 2012 and in accordance with National Policy Objective 13 of Ireland 2040, the Government Draft National Planning Framework (2018) which states that; *"In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected"*. The Board considered that the proposed development did not materially contravene the Dublin City Development Plan and accorded with the Ministerial Guidelines. Furthermore, the Board considered that, subject to the conditions set out below, the proposed development represented an acceptable mix of uses with an acceptable level of

flexibility having regard to the varying types or residential tenure available and considered that the residential amenities of future occupants were in accordance with the Ministerial guidelines published in 2018 for residential apartments.

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 August, 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. Adequate provision shall be made to facilitate access to and the use of the development, buildings, facilities and services by disabled persons. Details of the development's proposals for complying with this condition shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of achieving a development that is accessible to all people, having regard to Development Plan Policy.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings 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. 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: To protect the visual amenities of the area.

5. The apart-hotel units shall only be occupied for short-term letting periods of no more than two months and shall operate within the definition of an aparthotel as set out in Appendix 16 of the Dublin City Development Plan 2016-2022. In addition, the apart-hotel shall be managed by a reception facility on the ground floor with twenty-four-hour reception and security facilities. The apart-hotel shall not be used as independent and separate self-contained permanent residential units.

Reason: To ensure that the development would accord with the provisions of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

6. The proposed Aparthotel units shall not be used for the purposes of providing student accommodation. Planning permission will be required for the change of use from commercial short-term accommodation to residential.

Reason: In the interest of orderly development.

7. No additional development shall take place above roof parapet level, including lift motors, air handling equipment, storage tanks, ducts or other external plant, other than those shown on the drawings hereby approved, unless authorised by a prior grant of planning permission.

Reason: To safeguard the amenities of surrounding occupiers and the visual amenities of the area.

8. (a) The site and building works required to implement the development shall only be carried out between the hours of:

Mondays to Fridays – 0700 to 1800,

Saturday - 0800 to 1400, and

Sundays and public holidays – no activity on site.

- (b) Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority. Such approval may be given subject to conditions pertaining to the particular circumstances being set by the planning authority.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

9. The developer shall comply with the following requirements of the planning authority:
- (a) Before the use thereby permitted commences, a scheme shall be submitted to, and approved in writing, with the planning authority for the effective control of fumes and odours from the restaurant and hotel. The scheme shall be implemented before the use commences and thereafter permanently maintained.
 - (b) Extract fumes, if any, shall be minimised, and if necessary treated, using the best available technology. The stack emitting fumes shall be positioned in an area from which the emissions will cause the minimum nuisance. The fan installed to propel the extract shall be of sufficient power to ensure high exit velocity of the fumes during all weather conditions.
 - (c) Noise levels from the proposed 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. The rated noise levels from the site (defined as LAeq 1 hour) shall not exceed the background noise level (as defined in B.S. 4142:2014 by 10 dB or more.
 - (d) There shall be no speakers erected externally or directed into external areas.

Reason: In the interests of the amenities of both the immediate neighbours and general surroundings.

10. The developer shall comply with the following from the planning authority:

The landscape scheme accompanying the application shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. (The landscape scheme shall have regard to the Guidelines for Open Space Development and Taking in Charge, copies of which are available from the Parks and Landscape Services Division)

Reason: In the interests of amenity, ecology and sustainable development.

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.

12. Prior to commencement of works, the developer shall make a record of the existing structure. 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 structure, and
 - (b) a detailed, labelled photographic survey of all internal rooms (including all important fixtures and fittings), the exterior and the curtilage of the building.

This record shall be submitted to the planning authority prior to commencement of development and one copy of this record and a full set of drawings of the proposed works to the structure shall be submitted to the Irish Architectural Archive.

Reason: In order to establish a record of this structure.

13. The naming and numbering of streets, buildings and business or dwelling units shall be in accordance with a street naming and numbering scheme which shall be submitted to, and agreed in writing with, the planning authority. The names selected shall reflect local place names, or be of local historical interest, and be in both Irish and English and shall be installed on site prior to the occupation of the scheme. The applicant shall consult with the planning authority in relation to the translation of names.

Reason: In the interests of orderly street naming and numbering; to enhance urban legibility, and to retain local place name associations.

14. 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 Region in which the site is situated.

Reason: In the interest of sustainable waste management.

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 traffic management, noise management measures and off-site disposal of construction/demolition waste.

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

16. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of the proposed development.

Reason: In the interests of amenity and public safety.

17. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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 and maintenance of the development until taken in charge.

18. Prior to the commencement of development, the applicant shall delineate on a map those areas which are to be taken in charge for written agreement of the planning authority. In relation to those areas not taken in charge, a Management Company shall be set up. The Management Company shall provide adequate measures for the future maintenance and repair in a satisfactory manner of private open spaces, roads, footpaths, car park and all services, together with soft and hard landscaping areas, where not otherwise taken in charge by the local authority.

Reason: In the interests of the future maintenance of this private development, in the interests of residential amenity and the adequate provision of community facilities.

19. 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 Part V Condition.

