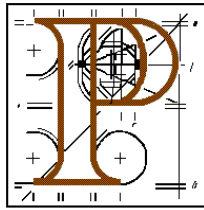


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2017

**Dublin City**

**Planning Register Reference Number: 2950/17**

An Bord Pleanála Reference Number: ABP-300057-17

**APPEAL** by Ronan McDonnell care of Thornton O'Connor Town Planning Limited of 39 Waterside Crescent, Swords Road, Malahide, County Dublin against the decision made on the 4<sup>th</sup> day of October, 2017 by Dublin City Council to grant subject to conditions a permission to Mullins Investments Limited 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:** Site clearance and levelling works, including the demolition of all existing building(s) on site and the construction of a new aparthotel building that ranges in height between three and seven storeys above two lower ground levels (along the southern part of site) to provide a total gross floor area of 6,346.8 square metres, including ancillary staff and guest facilities, plant, storage and waste/refuse storage areas and a minimum of 15 number bicycle parking spaces. An ESB substation is proposed at Ground floor level at the south-eastern corner of the proposed building. Guest/pedestrian access is provided along the southern frontage onto James Street leading into the reception area with ancillary café at ground floor. A combination of hard and soft landscaping measures are proposed along all elevations to enhance areas of public realm and ancillary amenity spaces. The proposed building includes for the provision of sustainable drainage measures together with the provision of green roofs; all at numbers 180, 182, 183 and 184 James Street, 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:

- (a) the policies and objectives set out in the Dublin City Development Plan, 2016-2022,
- (b) the nature, scale and design of the proposed development and the availability in the area of a wide range of social and transport infrastructure,
- (c) the pattern of existing and permitted development in the area,
- (d) the submissions and observations received, and
- (e) the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience and would represent a high quality architectural and urban design response to the sites context and its constraints. The Board further considered that the proposed development would represent a positive re-use of a derelict brownfield inner city site and an appropriate density and plot ratio and height given its location within the streetscape and proximity to excellent public transport links. The proposed development 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 considered that the proposed development would represent an appropriate design response to its site context including Cromwell's Quarters and would lead to an improved interface with the lane and surrounding building fabric, to improved public lighting, passive and active surveillance and an enhanced public realm. Furthermore, the Board is also satisfied that the proposed use of the proposed development and established use of Tahony House is a proposed aparthotel and existing hostel respectively, presenting a different use and character, being use on a short term basis, and not constituting normal places of residence. The Board concurred with the view that in a city centre context it is unreasonable to expect that the daylight amenity standards applied to transient and permanent uses would be comparable or equivalent to residential use.

## 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 to the planning authority on the 7<sup>th</sup> day of September, 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 railings bounding Cromwell's Quarters shall be coloured in a light grey finish to match the cut stone finish to the ground and first floor - St James Street elevation. Revised drawings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of works on site.

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

- 3 (1) The apart-hotels 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 aparthotel shall be managed by a reception facility on the ground floor with twenty four hour reception and security facilities. The aparthotel units shall not be used as independent and separate self-contained permanent residential units.
- (2) The proposed use of the development is as an aparthotel only. 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:** To ensure the development complies with the provisions of the Development and in the interest of the proper planning and sustainable development of the area.

- 4 Details and samples of the materials, colours and textures of all the external finishes to the proposed development, including pavement finishes, 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.

- 5 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. In addition, prior to commencement of development, mitigation measures against the risk of flooding including measures to address egress of occupants from the building in the case of flooding of surrounding land shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of public health.

6. (1) All foul sewage and soiled water shall be discharged to the public foul sewer.
- (2) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

**Reason:** In the interest of public health.

- 7 All the plant equipment to the north-east corner of the site shall have acoustic attenuation and be located within an enclosure designed to buffer and screen the area at all times.

**Reason:** To protect the amenities of adjoining residential occupants.

- 8 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/within the curtilage of the site) unless authorised by a further grant of planning permission.

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

- 9 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

- 10 No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, 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.

- 11 Water supply and drainage arrangements, including the 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 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 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.

- 13 The developer shall comply with the following requirements of the planning authority:-

(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, for example, boreholes and engineering test pits carried out for this site as soon as possible and before any site clearance/construction work commences. The assessment shall be prepared by a suitable 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 building and boundary treatments,
  - (iii) the nature, extent and location of archaeological material on site by way of archaeological testing and/or monitoring of the removal of overburden,
  - (iv) the impact of the proposed development on such archaeological material,
- (c) the archaeologist shall forward their method statement to the City Archaeologist in advance of commencement,
- (d) where archaeological material is shown to be present, a detailed impact statement shall be prepared by the archaeologist which will 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 and drains. 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 sub-surface work shall be undertaken in the absence of the archaeologist without their express consent. The archaeologist retained by the project to carry out the assessment shall consult 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 of Culture, 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) prior to commencement of development, the developer shall agree the foundation layout with the City Archaeologist,
- (j) following submission of the final report to the City Archaeologist, where archaeologist 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.

14. 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 or by a management company of 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.



15. 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.

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

**Dated this            day of            2018.**