



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 2628/17

Appeal by Phizzfest Reimagining Phibsborough and others care of Tina Robinson of 2 Shandon Gardens, Phibsborough, Dublin and by Tesco Ireland Limited care of GVA Planning of Second Floor, Seagrave House, 19-20 Earlsfort Terrace, Dublin against the decision made on the 24th day of October, 2017 by Dublin City Council to grant subject to conditions a permission to Phibsborough Shopping Centre Limited care of Brady Shipman Martin of Block B, Canal House, Canal Road, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: A development consisting of the part demolition of existing structures on the site and the construction of an extension to the existing Phibsborough Shopping Centre onto Phibsborough Road and North Circular Road ranging in height from three to seven storeys to contain new retail/restaurant and office units, student accommodation, a new civic plaza and an upgrade of the existing Shopping Centre and commercial office tower façade with a total new build gross floor area of 15,775 square metres (including basement). The proposed application does not include Units

Numbers 7 and Units Numbers 13-15 and Number 17 of the existing Shopping Centre.

A detailed description of the development is as follows:

1. Demolition of the existing Tramway End/East Terrace of Dalymount Stadium, the existing warehouses in Kelly's Yard off the North Circular Road and part of Unit Number 1 of Phibsborough Shopping Centre and other ancillary site clearance.
2. Construction of an extension to the existing Phibsborough Shopping Centre to contain a new Student Accommodation scheme, retail/restaurant units, commercial office and new civic plaza.
 - The student accommodation is set out in two blocks around two landscaped courtyards and range in height from four to six storeys over split level ground floor, with part overhanging of the existing Shopping Centre onto Phibsborough Road. The scheme has a total gross floor area of 10,959 square metres (including basement) and accommodates a total of 341 bedspaces. The split-level ground floor accommodates management offices and reception, student amenity space, storage, ancillary circulation areas and a split-level basement containing 172 number bicycle parking spaces, cinema room, bin storage, laundry and plant.
 - Two number retail/café/restaurant units with a gross floor area of 1,037 square metres and 658 square metres at ground floor level facing onto the northern side of the new civic space.

- A new three-four storey including setback block which extends from the new civic space to North Circular Road containing three number ground and first floor retail/café/restaurant units of 502 square metres, 430 square metres and 366 square metres gross internal area and second and third floor accommodation of 1,367 square metres.
 - The construction of a new Civic Space linking Phibsborough Road and North Circular Road. The Civic Space facilitates access to Dalymount Park Site.
3. Alterations to the existing Phibsborough Shopping Centre consisting of:
- New façade in the form of expanded metal mesh to cover existing Phibsborough Road and Connaught Street frontage of the Shopping Centre, and west and east sides of the existing Tower Building.
 - Continuation of the proposed façade treatment over the roof of the Tower Building to provide screening in addition to re-organisation of all existing antennae.
 - Upgraded shopfronts and signage for all existing units.
 - Upgraded surface treatment, landscaping and boundary treatment to the existing car parking and walkways within the site.
 - Part demolition of existing Unit Number 1 and remainder to be amalgamated into existing Unit Number 2 and change of use to retail/restaurant.

- Retention of the gym use in Unit Number 19 at first floor level.
- Provision of a new Service Yard to serve the redeveloped Shopping Centre to the rear of the site, accessed from Connaught Street.

Permission is also sought for hard and soft landscaping, boundary treatments, signage and all ancillary site and development works on a site of 0.969 hectares at Phibsborough Shopping Centre and 345-349 North Circular Road, Dublin. The site is bounded by North Circular Road to the south, Connaught Street to the north, Dalymount Park to the west and Phibsborough Road to the east.

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 zoning objective, Z4 'To provide for and improve mixed-services facilities' and to the designation of the site as a Key District Centre, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity and would be in accordance with the provisions, policies and objectives of the Dublin City Development Plan 2016-2022 and with the proper planning and sustainable development of the area.

Appropriate Assessment

Having regard to the information on file and to the Inspector's assessment which is noted, the Board is satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any European Site, in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura impact statement) is not, therefore, required. In this regard, the Board concurred with and adopted the Planning Inspector's conclusions in respect of Appropriate Assessment Screening.

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 27th day of September, 2017, and with the details and drawings submitted to An Bord Pleanála at the Oral Hearing on the 3rd day of May, 2018, 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. (a) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a scheme for the reorganisation of existing authorised (and/or exempted) and potential future telecommunications equipment attaching to the existing buildings and structures on site, which shall be implemented at the developer's own expense.
- (b) The scheme agreed under part (a) of this condition shall be implemented for all authorised telecommunications equipment (or such equipment constituting exempted development) prior to the first occupation of any of the proposed units within the development.
- (c) Nothing in this decision shall be taken as authorising any existing unauthorised telecommunications equipment on this site.

Reason: In the interest of visual amenity.

3. (a) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details and drawings (a landscape scheme) of all boundary treatments, landscaping and planting within the proposed development.
- (b) Landscaping and planting shall be implemented 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 planning authority's Guidelines for Open Space Development and Taking in Charge.

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

4. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority revised drawings and details, revising the design of the proposed civic plaza, including access to/from the surrounding public roads and to/from Dalymount Park and to/from Dalymount Lane, which shall:
 - (a) seek to comply with 'Buildings for Everyone: A Universal Design Approach. External Environment and Approach 1' (NDA Centre for Excellence in Universal Design, 2012), including, in particular the requirements to avoid barriers and to minimise travel distances (such as that created and increased by the proposed stepped arrangement of the space),
 - (b) provide for crowd access/egress requirement to/from the site of the existing/future-redeveloped Dalymount Park stadium (the proposed stepped arrangement is in conflict with this requirement),
 - (c) provide for articulated Heavy Goods Vehicles access from North Circular Road (the proposed subdivided and stepped arrangement of the space does not provide sufficient space for Heavy Goods Vehicles to manoeuvre safely into the site and any subdivision of this space would need to be setback in a northerly direction),
 - (d) provide permanently open pedestrian access to/from Dalymount Lane to/from the development site,
 - (e) omit the wall structure(s) to the north of the ramped access (Electricity Supply Board right-of-way) from Phibsborough Road to the civic plaza, and to continue the stepped arrangement along the northern perimeter of the ramp, except where an alternative design arrangement is agreed in writing with the planning authority,

- (f) provide for prevention of vehicular traffic through the civic space generally, except on an agreed occasional basis, and
- (g) provide for publicly accessible bicycle parking to the standard required by the planning authority within the proposed civic space and/or ancillary spaces.

Reason: To ensure that the public space within this development is accessible and safe, in compliance with Council policy SN29, and to avoid creation of a traffic hazard.

- 5. (a) The space to the west of the proposed student accommodation building and service yard shall form part of an open through-route for pedestrian and bicycles between North Circular Road, Dalymount Lane, Connaught Street and Phibsborough Road, that shall be provided in conjunction with the redevelopment of Dalymount Park lands to the west of the development site, the details of which, including the date at which the through-route is opened/commissioned, shall be agreed in writing with the planning authority prior to commencement of development.
- (b) On completion and commissioning of the through-route (referred to in part (a) of this condition), the gates at the southern end of the lane, and any other similar obstructions shall be permanently removed.

- (c) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, revised details and drawings showing the proposed service yard electricity substation and switch rooms relocated away from the laneside boundary.

Reason: To provide for, improve and promote pedestrian and passive transport movements and permeability through the site.

- 6. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority revised details and drawings amending the development as follows:
 - (a) The western elevations of the two number student accommodation blocks shall be amended to incorporate fenestration on each level from second floor to seventh floor levels, inclusive, similar to that proposed on the east-facing elevations.
 - (b) The west facing elevations to the two number student blocks shall be finished in brick similar in quality and pattern to that proposed on the east-facing elevations.
 - (c) All glazing to the western elevations, from ground through to seventh floor level shall be fitted and maintained with clear glazing only and the glazing shall not be obscured by screens or other such devices as would reduce passive surveillance of the area to the west of the building.

Reason: To provide for, improve and promote pedestrian and passive transport movements and permeability through the site.

7. 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 and for the ongoing operation of these facilities 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.

8. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details and drawings of the revised proposals for the resurfacing and layout of the existing shopping centre forecourt to the east and north of the shopping centre, which shall be in accordance with the principles, standards and guidelines set out in the Design Manual for Urban Roads and Streets (Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government, 2013), to include:
 - (a) Arrangement and material surfacing to parking spaces, pedestrian paving and vehicular access lane through the forecourt.

- (b) Three pedestrian access routes shall be provided between the public footpath bounding the site and the internal pedestrian footpath to the shopping centre – at the entrance from Connaught Street, at the entrance from the junction of Phibsborough Road/Connaught Street junction, and from adjacent (approximately) the pedestrian crossing to Phibsborough Road.
- (c) The support structures to the student accommodation buildings shall be relocated entirely outside the width of the existing pedestrian footpath adjacent the shopping centre building.

Reason: To improve pedestrian facilities and safety within the site and promote pedestrian movements in Phibsborough Key District Centre.

- 9. (a) The rear service yard, inclusive of an appropriate accessible delivery service lift to rear of Tesco Ireland Ltd unit indicated in 'proposed plan' (Tesco Servicing, in 'Summary of Proposed Development' booklet submitted by the developer to An Bord Pleanála at the Oral Hearing on the 3rd day of May, 2018), shall be provided and be fully operational and accessible to all commercial units within the extended shopping centre building.
- (b) The access route between the service yard/loading area and the existing service lane/escape lane to the rear of units numbers 2 to 11 shall be amended to a slope (in lieu of proposed steps) and the corridor widened to at least 1.8 metres (except where the planning authority agrees that this is not feasible) to facilitate service deliveries via the service yard.

Reason: To facilitate service deliveries to the rear of commercial units via the service yard.

10. (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) No works to which this application relates shall commence until an appropriate programme of historic building recording and analysis has been secured in accordance with a written scheme of investigation.
- (c) 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 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.
 - (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.

- (d) The archaeologist shall forward their Method Statement in advance of commencement to the City Archaeologist.
- (e) 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 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 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.
- (f) 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.
- (g) 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 the Gaeltacht), shall determine the further archaeological resolution of the site.

- (h) The developer shall comply with any further archaeological requirement, including archaeological monitoring, and if necessary, archaeological excavation and/or the preservation in situ of archaeological remains.
- (i) The developer shall make provision for archaeological excavation in the project budget and timetable.
- (j) Before any site works commence, the developer shall agree the foundation layout with the City Archaeologist.
- (k) 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 requirements of the planning authority.

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

11. The proposed development shall be used only as student accommodation, or accommodation related to a Higher Education Institute, during the academic year; and as student accommodation, or accommodation related to a Higher Education Institute or tourist/visitor accommodation only during academic holiday periods. The development shall not be used for the purposes of permanent residential accommodation, as a hotel, hostel, apart-hotel or similar use without a prior grant of permission.

Reason: In the interest of the proper planning and sustainable development of the area.

12. Retail units numbers A2, A4 and A5 shall be limited to use for retail/café or for use as a shop.

Reason: To allow for appropriate flexibility of use within Phibsborough Key District Centre, in the interest of the proper planning and sustainable development of the area.

13. With regard to the ongoing use of Dalymount Park during the construction and operational phases of the development, prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details and drawings of the following:

- (a) the maintenance of continued access to water pump on the application site,
- (b) repositioning of floodlights on Dublin City Council land,
- (c) continued maintenance of ambulance entry during matches,
- (d) construction works to take account of games in Dalymount Park,
- (e) safe separation of the Dalymount pitch from the application site, and
- (f) safe and accessible access and egress to/from Dalymount Park by articulated Heavy Goods Vehicles.

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

14. (a) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details of all signage and lighting proposals on site. These details shall ensure that the lettering on the existing retail units shall be no greater than 300 millimetres in height, shall be individually mounted and shall be backlit and all lettering on the new commercial units shall be no greater than 400 millimetres in height, shall be individually mounted and shall be backlit. No logos shall appear on the fascia. Details of lighting proposed for the glazed cube shall also be submitted.
- (b) The height of the banners (three number) at the North Circular Road entrance shall be reduced to no more than four metres in height and their exact location shall be agreed in writing with the planning authority prior to commencement of development.

Reason: To protect the amenities of the area, including protected structures and the Architectural Conservation Area.

15. No additional development shall take place above roof 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.

16. Prior to commencement of development, 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. A panel of the proposed finishes shall be placed on site to enable the planning authority to adjudicate on the proposals. Any proposed render finish shall be self-finish in a suitable colour and shall not require painting. Construction materials and detailing shall adhere to the principles of sustainability and energy efficiency and high maintenance detailing shall be avoided.

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

17. 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.

18. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, the 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 any unit.

Reason: In the interests of amenity and public safety.

19. 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.

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

20. 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.

21. Site development and building works shall be carried out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

22. (a) At the vehicular access point to the development along the North Circular Road and at any other vehicular access points to the site (occasional or otherwise), the public footpath shall be continued at a raised level across the site entrance and exit, but shall be ramped and dropped as necessary (for example, 32 millimetres kerb over carriageway) to facilitate car-entry/exit. Measures shall be implemented, including contrasting materials, signing and road marking to ensure that vehicles entering/leaving the development are aware that pedestrians/cyclists have priority across the site entrance and that vehicles must yield right-of-way. Details in this regard shall be agreed in writing with the planning authority prior to commencement of development.

- (b) Prior to commencement of development, all works proposed on the public road, shall be subject to the written agreement of the planning authority. Any works to the existing public road and the public realm road and footpath modifications and signage shall be carried out at the developer's expense and to the detailed requirements of the planning authority.
- (c) The proposed new civic space, footpaths and hard landscaping areas to be taken in charge including all materials and public lighting shall be agreed in writing with the planning authority prior to commencement of development. All materials shall be in accordance with the requirements of the planning authority.
- (d) The developer shall undertake to implement the measures outlined in the Student and Mobility Management Plans and to ensure that future tenants of the proposed development comply with the plans. A Mobility Manager for the overall scheme shall be appointed to oversee and co-ordinate the preparation of individual plans.
- (e) A project traffic management plan for all stages of construction traffic shall be agreed in writing with the planning authority before demolition, excavation and construction commences. The plan shall detail access arrangements for labour, plant and materials and shall indicate the locations of plant and machine compound.
- (f) All cycle parking shall be the Sheffield stand or similar allowing the frame and wheel to be locked and be located in a secure sheltered cycle compound with adequate lighting and convenient access to the street.

- (g) 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.

Reason: To ensure an adequate standard of development

23. 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.

24. 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 be applied to the permission.

25. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City 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 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Paul Hyde

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

Dated this day of 2018.