

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2017

Dublin City Council

Planning Register Reference Number: 3871/17

An Bord Pleanála Reference Number: ABP-300410-17

Appeal by John Gillespie, David Bateman and Carmel Lowe care of The Planning Partnership of McHale Retail Park, Castlebar, County Mayo against the decision made on the 6th day of October, 2017 by Dublin City Council to refuse permission for the proposed development.

Proposed Development: Development consisting of the part demolition of existing two storey structures at the rear of the property and removal of existing curved ceiling over existing third floor office space and the construction of a retail unit at ground floor and five one bedroom apartments, one two-bedroom apartment, one three-bedroom apartment and roof terrace. The overall height of the proposal is five storeys over ground with a setback rooftop access core, all at the rear of 1 Upper Rathmines road, Rathmines, Dublin.

Decision

GRANT permission for the above proposed development in accordance with the plans and particulars lodged with the said council, 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 established pattern and prevailing height of development in the area, to the planning history of the appeal site including the grant of permission for application planning register reference number 4002/16, to the Z4 zoning provisions of the Dublin City Development Plan 2016-2022, to the location of the proposed development in the Rathmines Key District Centre and to the Design Standards for New Apartments – Guidelines for Planning Authorities (March 2018), it is considered that, subject to compliance with the conditions set out below, the proposed development would not be visually intrusive on the streetscape, would not seriously injure the visual and residential amenities of the area and property in the vicinity of the proposed development 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 had regard to the prevailing height of existing and permitted development in the area and considered that the set back at fifth floor level on the elevation fronting Rathmines Road Upper in conjunction with the design and height modifications to the elevation fronting Rathgar Road that were submitted with the appeal would ensure that the height, bulk and massing of the building was appropriate for the site. The Board, therefore, considered that, subject to compliance with the conditions set out below, the proposed development would 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 received by An Bord Pleanála on the 7th day of December, 2017, in particular drawing number 149-sk-200-01, 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 omission of apartment number 6.

Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual amenity.

3. Details of all external shopfronts and signage for the retail unit 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 the area/visual amenity.

4. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

5. No additional development (other than those shown on the drawings submitted with 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, 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.

6. 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:
- (a) location of the site and materials compound including areas identified for the storage of construction refuse;
 - (b) details of site security fencing and hoardings;
 - (c) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - (d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (e) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
 - (f) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels; and
 - (g) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

7. 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.

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

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

9.
 - (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
 - (b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system

Reason: In the interest of public health.

10. Seven number bicycle parking spaces shall be provided within the site. Details of the layout and marking demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

11. 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.

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

Dated this day of 2018