



Planning and Development Acts 2000 to 2017

Planning Authority: Dublin City Council

Planning Register Reference Number: 3323/17

Appeal by An Taisce of Tailors' Hall, Back Lane, Dublin against the decision made on the 16th day of November, 2017 by Dublin City Council to grant subject to conditions a permission to Newmarket Partnership PM 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: Demolition of all existing buildings on site and redevelopment of the site for mixed use purposes. The proposed development is arranged in four blocks enclosing a central courtyard above lower ground level and double basement. The proposed basement level is accessed via vehicular access ramp off Brabazon Place to provide 112 car parking spaces together with 195 number bicycle parking spaces plus ancillary shower and changing facilities together with ancillary plant and storage facilities. The proposed western block is a part five, part seven and part eight storey building over lower ground and basement levels providing a hotel with a total floorspace of 7,797.72 square metres (gross floor area). The proposed southern block fronting Newmarket Square is a part five and part six storey

building over basement comprising 743.71 square metres (gross floor area) of retail floorspace at ground floor level with 34 number residential units on the upper floors, comprising eight by one bedroom, 20 by two bedroom and six by three bedroom units. North and south facing balconies are proposed at first to fourth floor levels with north and south facing roof terraces at fifth floor level serving the residential units. Two Electricity Supply Board substations and a Switch Room are proposed at the western end of this block at lower ground floor level. The proposed northern block fronting Saint Luke's Avenue is a part seven and part eight storey building over lower ground and part double basement providing 58 residential units, comprising 15 by one bedroom, 35 by two bedroom and eight by three bedroom units. North and south facing balconies are proposed at first to fifth floor levels with north and south facing roof terraces at sixth floor level serving the residential units. The proposed eastern block is a part four, part five and part six storey building over lower ground and basement levels providing 7,346 square metres (gross floor area) of office floorspace. A combination of hard and soft landscaping measures are proposed to the courtyard and areas of public realm. A single storey artist studio unit of 44 square metres (gross floor area) is proposed within the southern part of the courtyard to the rear of the proposed southern block. All on a site known as IDA Ireland Small Business Centre at Newmarket Industrial, Estate, Newmarket, Dublin (bounded by Newmarket Square to the south, Saint Luke's Avenue/Cork Street to the north, Newmarket Street to the east and Brabazon Place to the west.

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 site's location close to the city centre with a zoning objective Z10 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses, with residential the predominant use in suburban locations, and office/retail/residential the predominant use in inner city areas' in the Dublin City Development Plan 2016-2022, to the Liberties Local Area Plan, 2009, to the nature, scale and design of the proposed development, to the pattern of existing and permitted development in the area and to the submissions and observations received, it is considered that, subject to compliance with the conditions set out below, the proposed development would respect the existing historical character of the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, and would be acceptable in all other respects. 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 to the planning authority on the 20th day of October, 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 use of the entire area indicated as Artist studio on the revised plans and particulars submitted to the planning authority on the 20th day of October, 2017, shall be used for that purpose only. No change of use shall be permitted in the absence of a prior grant of planning permission.

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

3. Prior to commencement of development, revised plans showing a fully accessible pedestrian route through the site from Newmarket to Saint Luke's Avenue shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of providing access for all.

4. Prior to erection on site, all external finishes shall be agreed in writing with the planning authority and where appropriate, sample panels shall be erected for inspection on site, the finishes shall be in accordance with the documentation submitted with the planning application, as amended by the further plans and particulars submitted to the planning authority on the 20th day of October, 2017, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

5. 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 element, shall be displayed or erected on the building or within the curtilage of the site, or attached to the glazing, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

6. (a) The alterations to Apartment Block 4 on Saint Luke's Avenue shall be in accordance with the revised layout identified as "Option B" submitted to the planning authority on the 20th day of October, 2017.
- (b) Prior to commencement of development, the developer shall submit a complete set of revised elevation drawings of the proposed development, to a scale of 1:200, which reflects the external alterations to the development set out in the plans and particulars submitted to the planning authority on the 20th day of October, 2017.

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

7. The landscape scheme accompanying the planning application 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.

Reason: In the interest of visual amenity.

8. 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.

9. Prior to commencement of development, proposals for a name and numbering scheme and associated signage for the proposed development shall be submitted to the planning authority for written agreement.

Reason: In the interest of orderly development.

10. (a) 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 (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, the developer shall liaise with the planning authority regarding the sequencing of works of the Newmarket Part VIII public realm upgrades and the interface and potential contribution of the development site to the delivery of the Part VIII.
- (c) Prior to occupation of the development, a servicing strategy shall be agreed in writing with the planning authority. This shall take cognisance of changing traffic management arrangements as they may arise.
- (d) Prior to occupation of the proposed development, a car parking Management Plan for the development shall be submitted to, and agreed in writing with, the planning authority. No more than 13 spaces shall be assigned to the office use within the development.
- (e) Prior to commencement of development, and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management measures and noise management measures.
- (f) The developer shall undertake to implement the measures outlined in the Mobility Management Framework Plan and to ensure that future tenants of the proposed development comply with this strategy. A Mobility Manager for the overall scheme shall be appointed to oversee and co-ordinate the preparation of individual plans.

- (g) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a revised Basement Plan which illustrates the allocation of five number car parking spaces to car club use.
- (h) The proposed footpaths and hard landscaping areas to be taken in charge including all materials shall be agreed in writing with the planning authority prior to commencement of development.
- (i) Prior to commencement of development, details of the proposed loading bay on Saint Luke's Avenue shall be agreed in writing with the planning authority. The provision of the loading bay and any other proposed alterations to the road network shall be to the requirements of the planning authority and at the developer's expense.
- (j) Cycle parking shall be secure, conveniently located, sheltered and well lit. Key/fob access should be required to bicycle compounds. Cycle parking design shall allow both wheel and frame to be locked. Sheffield type stands or similar are the preferred format of the planning authority. Shower and changing facilities shall also be provided as part of the development.
- (k) 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: In the interest of traffic safety.

11. 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.

12. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer’s expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

13. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes, 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 dwelling.

Reason: In the interests of amenity and public safety.

14. 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.

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

Reason: In the interest of public health.

16. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

17. All mitigation measures as set out in the 'Appropriate Flood Risk Assessment prepared by Cronin and Sutton' dated 21st day of June, 2017 Revision, which was submitted to the planning authority on the 5th day of July, 2017, shall be implemented.

Reason: To minimise flood risk.

18. (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 site shall be subject to pre-development archaeological testing to determine: (a) the nature, extent and location of archaeological material, if any, on site and (b) the impact of the proposed development on any such archaeological material.
 - (c) The archaeologist shall forward their Method Statement in advance of commencement to the City Archaeologist.

- (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 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.
- (e) 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.
- (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 Arts, Culture and the 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 archaeological 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.

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 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 for the area.

20. Prior to the commencement of development, the developer shall delineate on a map those areas which are to be taken in charge for the 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 planning authority.

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

21. 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.

22. 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.

23. 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.