



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 3188/17

Appeal by Peter Keenahan of 3 High Road, Kilmainham Lane, Dublin against the decision made on the 25th day of January, 2018 by Dublin City Council to grant subject to conditions a permission to Derek Beahan Limited care of Niall D. Brennan Associates of 52 Pembroke Road, Ballsbridge, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of existing buildings on site and construction of a 26 number unit apartment development in two blocks over basement car park, with 26 number car parking spaces and 26 number bicycle parking spaces, as follows: Block A facing onto old Kilmainham being five storeys with the uppermost storey set back, with projecting and recessed balconies, containing 17 number apartments - three number by one bedroom units, 12 number by two bedroom units, and two number by three bedroom units. Block B situated across an internal landscaped courtyard and overlooking the River Camac, being four storeys with the uppermost storey set back, with recessed balconies, containing nine number apartments - one number by one bedroom unit, five number by two bedroom units, and three number by three bedroom units, vehicular access to ramp at location of

existing site entrance, associated landscaping and site works. All at numbers 23-25 Old Kilmainham Road, 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

Having regard to the Z1 zoning objective relating to the site and to policy CHC1 which seeks to preserve the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city, as provided for in the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 20th day of December, 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 development shall be amended as follows:
- (a) The area between apartment number 1 and the public footpath/ramp to the car park shall be enclosed by a railing boundary not exceeding 1.2 metres in height.
 - (b) The front elevation of the “own door office” shall be set forward in order to be consistent in footprint with the projecting balcony above.
 - (c) The west facing elevation shall be finished entirely of brick from Blocks A and B.
 - (d) The railing at parapet wall level of Block A shall be omitted and replaced with brick.
 - (e) The window and door surrounds of both blocks shall not be finished in uPVC.

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

Reason: In the interests of residential and visual amenity.

3. 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.

4. Details of the proposed access/entrance point to the development including materials used, signage and road markings shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interests of traffic and pedestrian safety.

5. A total of 24 number car parking spaces shall be provided within the site. The layout and design of these spaces at basement level shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. One car parking space shall be permanently allocated to each residential unit and numbered as such. Car parking spaces shall not be sold, rented or otherwise sublet or leased through other parties.

Reason: In the interest of orderly development.

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 traffic management measures and noise management measures.

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

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. The flood mitigation measures as set out in the report titled “Flood Risk Assessment and Office of Public Works National Flood Hazard Mapping Report” dated June, 2017 Rev A shall be implemented in full.

Reason: In the interest of public health.

9. A full architectural survey of the building proposed for demolition shall be carried out and shall include a photographic record of all elements and shall be submitted to the planning authority prior to commencement of development. Archive standard drawings and a photographic survey shall be prepared in accordance with the requirements of the planning authority.

Reason: In order to facilitate the conservation, preservation and/or recording of the architectural heritage of the site.

10. In the event that hazardous soil, or historically deposited waste is encountered during the construction phase, the contractor must notify the planning authority and provide a hazardous/contaminated soil management plan, to include estimated tonnages, the description of the location, any relevant mitigation, destination for disposal/treatment in addition to information on the authorised waste collectors.

Reason: In the interest of public health.

11. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of the archaeological materials or features which may exist within the site. In this regard, the developer shall:-

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

12. Site development and building works shall be carried out between the hours of 0800 to 1900 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.

13. 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.

14. The naming and numbering of all dwelling units shall be in accordance with a scheme submitted to, and agreed in writing with, the planning authority prior to the occupation of any dwelling unit.

Reason: In the interest of orderly development.

15. 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.

16. 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.

17. 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.

18. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of public open space. The amount of the contribution 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 for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

Dated this day of 2018.