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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3629/17**

**Appeal** by Sean Harrington and others care of HRA Planning of 3 Hartstonge Street, Limerick and by LMS Investments Designated Activity Company care of Declan Brassil and Company Limited of Lincoln House, Phoenix Street, Smithfield, Dublin against the decision made on the 24<sup>th</sup> day of January, 2018 by Dublin City Council to grant subject to conditions a permission to the said LMS Investments Designated Activity Company in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** The proposed development comprises site clearance works, including the demolition of all existing building(s) on site and the construction of a new mixed-use building that ranges in height between three and seven storeys above basement level with a total gross floor area (GFA) of 14,364 square metres. The proposed development comprises an aparthotel use at basement, part ground and at all upper levels of the proposed building to provide 343 aparthotel units. Provision is made for ancillary staff and guest facilities, plant, storage and waste/refuse storage areas, nine number car parking spaces and 35 number bicycle parking spaces at basement level. The basement is accessed via ramped access off Little

Green Street at the northern end of the site. Ancillary staff and guest facilities together with ancillary reception, kitchen and coffee shop are provided at ground floor level which is accessed off Little Mary Street. A retail unit (214 square metres gross floor area) is provided at ground floor level at the corner of Little Mary Street and Little Green Street with artist studio space, measuring approximately 103 square metres in area, together with Electricity Supply Board switch-room and Electricity Supply Board sub-station to the north thereof along Little Green Street. A combination of hard and soft landscaping measures is proposed along all frontages to enhance areas of public realm and ancillary amenity spaces within the development. The proposed building includes for the provision of sustainable drainage measures together with the provision of green roofs. Rooftop plant is provided at 4<sup>th</sup> and 6<sup>th</sup> floor levels at this site bounded by Little Mary Street (to the south), Little Green Street (to the west) and Anglesea Row (to the east), 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 provisions of the Dublin City Development Plan 2016-2022, the planning history of the site, to the pattern of development in the area, Objective 13 of the National Planning Framework, the submissions on file and to the report of the Inspector, the Board considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of the visual and residential amenity of the area and would enhance the public realm and represent a visual improvement to the fabric of the inner city location. The Board further considered that the proposed development would enliven and enhance the tourist offering in the Markets Area of the north inner city. 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 concurred with the planning authority and considered that, subject to the conditions attached, the proposed development would not seriously injure the residential amenities of adjoining properties to the east and would be acceptable in terms of both residential and visual amenity.

## 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 23<sup>rd</sup> day of November, 2017 and the clarification of further information submitted on the 20<sup>th</sup> 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. 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 prior to commencement of development.

**Reason:** In the interest of 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. The aparthotel 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.

**Reason:** To ensure that the development would be in accordance with the provisions of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

5. 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:** In the interest of orderly development.

6. The use of the commercial ground floor retail unit shall be restricted to Class 1 retail use. Any change from the use shall be the subject of a separate planning application.

**Reason:** In the interest of streetscape amenity, to ensure an appropriate level of active frontage and in the interest of the proper planning and sustainable development of the area.

7. Details of all external shopfronts and signage relating to the aparthotel use, retail use and artists' studios 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.

8. Public access to the coffee shop shall be maintained at all times.

**Reason:** In the interest of active animation of the ground floor unit, streetscape amenity and the proper planning and sustainable development of the area.

9.
  - (a) The developer shall retain a licensed archaeologist to carry out the archaeological requirements of the planning authority.
  - (b) No construction or site preparation work shall be carried out on the site until all archaeological requirements of the planning authority are complied with.
  - (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.

- (d) An archaeological method statement for impact mitigation including temporary and enabling works shall be agreed in advance with the planning authority.
- (e) Where impact is unavoidable, all in-situ features, including post medieval, must be fully recorded prior to removal by hand excavation (unless methodology otherwise agreed).
- (f) Once archaeological layers have been exposed, the ground shall be reduced as an archaeological exercise using archaeological hand excavation techniques. In the event of in situ articulated human remains or other significant archaeological deposits being located during the course of this work, the archaeologist retained by the developer shall immediately notify the planning authority and The National Monuments Service. Should such archaeological features be of great significance, their preservation in situ shall be required. This may negate, or curtail, aspects of the development.
- (g) The ground shall be reduced to the base of the archaeological deposits.
- (h) A finds-retrieval strategy shall be developed by the licensed archaeologist and submitted for written agreement to The National Monuments Service and the planning authority.
- (i) The developer shall fund the post-excavation work and sufficient resources shall be allocated to ensure that correct archaeological procedures are adhered to.

- (j) The developer shall fund the public dissemination of the findings of archaeological investigations and excavations.
- (k) A written and digital report (on compact disc) containing the results of the archaeological excavation and post-excavation shall be submitted on completion to the planning authority and to The National Monuments Service.
- (l) Following submission of the Final Report to the planning authority, 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, Pearse Street, Dublin or with another appropriate repository to be otherwise agreed in writing with the planning authority within two years of excavation completion.

**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.



10. The site shall be landscaped in accordance with the Landscape Strategy as submitted to the planning authority on the 11<sup>th</sup> day of August, 2017, details of the scheme of landscaping shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall include a timescale for its implementation.

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

11. No additional development 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.

12. 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 traffic management measures.

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

13. 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.

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. (a) The cycle parking provided shall be fully accessible and easy to use. Cycle parking to development plan standards shall be provided at the development, the facilities shall be conveniently located, secure, easy to use, and adequately lit. Prior to commencement of development, revised plans showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority.
- (b) A project traffic management plan for all stages of construction traffic shall be agreed in writing with the planning authority before demolition and excavation commences. The plan shall detail access arrangements for labour, plant and materials and shall indicate the locations of plant and machine compounds.
- (c) 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.
- (d) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

**Reason:** In order to ensure a satisfactory standard of development and in the interests of traffic safety and sustainable transportation.

16. 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.

17.

17. 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.

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**Paul Hyde**

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

**Dated this            day of            2018.**