



Planning and Development Acts 2000 to 2018

Planning Authority: Cork City Council

Planning Register Reference Number: 17/37668

Appeal by John Grace care of Waterman Consulting Engineers of 4 Union Quay, Cork and by others against the decision made on the 8th day of February, 2018 by Cork City Council to grant subject to conditions a permission to R.E.S.A.M. Properties Limited care of Manahan Planners of 38 Dawson Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Retain and refurbish the front bays of the building (floor area 465 square metres) as part of a new high order retail outlet. The rear portions of the building facing Cook Street containing 1,702 square metres of floorspace will be demolished and replaced with a new build containing 1,817 square metres. A new additional top floor will be provided. The entire building will be used for a high order retail use and the new build to the rear will be integrated with the retained and refurbished portion to the front. The completed development will have a floor area of 2,282 square metres in comparison to 2,167 square metres at present and will be four storeys in height. The existing ESB substation will be relocated within the site and the development will include all site development works at the former Victoria Hotel site at 35-36 Saint Patrick's Street and 38-39 Cook Street, Cork, presently retail at ground floor and vacant overhead.

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 location of the site within the prime retail core, the policies and objectives of the Cork City Development Plan 2015-2021, the nature and scale of the development and the conservation approach adopted regarding the future development, it is considered that, subject to compliance with the conditions set out below, including the modified design submitted by the applicant, the proposed development would be in accordance with the zoning objective for the area, would not seriously injure the character of the area or the amenities of property in the vicinity, and would not have unacceptable impacts in terms of architectural heritage or the visual amenity of the area. 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 modified by the revised plans and particulars described as “Unsolicited Modification Option”, and as outlined on drawings numbers 523_P_102_D, 523_P_103_D, 523_P_204_D, 523_P_300_D, as submitted to An Bord Pleanála on the 28th day of December 2018, (involving a lowering of the fourth floor parapet level from that originally designed by 800 millimetres and an increase in the articulation of the fourth floor windows), 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 interests of clarity and of visual amenity.

2. The use of the unit shall be restricted to the sale of comparison goods, as defined in Annex 1 Glossary of Terms attached to the Retail Planning Guidelines for Planning Authorities (2012).

Reason: In order to protect the prime retail frontage on Saint Patrick’s Street and in the interest of proper planning and sustainable development.

3. Both entrances to the retail unit from Cook Street and Saint Patrick’s Street shall be available for public use at all times during opening hours.

Reason: In order to maintain live entrances along both streets in the interests of urban design considerations and to maintain footfall from both streets.

4. Details of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of 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 the 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 any 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.

6. (a) Prior to commencement of development, the developer shall provide for the appointment of an accredited conservation architect or other professional with similar expertise, acceptable to the planning authority, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.
- (b) All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

Reason: To ensure that the integrity of the historic structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.

7. (a) Details of all signage, including signage on the proposed shopfront, including method of illumination, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (b) No roller shutters shall be erected on the exterior of the development.
- (c) No advertisements shall be placed on the proposed awnings and no adhesive material shall be affixed to the windows or doors.
- (d) The existing street sign and commemorative plaque shall be incorporated into the completed development.

Reason: To protect the visual amenities of the area.

8. Apart from the shopfront signage agreed under condition 7(a) of this permission, and notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no further 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 building 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, and to allow the planning authority to assess any such further signage or advertisements through the statutory planning process.

9. No additional development, other than that shown on 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, telecommunications aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to allow the planning authority to assess any such development through the statutory planning process.

10. 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 measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network, noise management measures, off-site disposal of construction/demolition waste and construction traffic management.

Reason: In the interests of public safety and amenity.

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

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

12. A plan containing details for the management of waste/recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste/recyclable materials and for the on-going 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/recyclable materials in the interest of protecting the environment.

13. 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.

14. Mitigation measures against the risk of flooding as outlined in the Flood Risk Assessment Report submitted with the application, shall be implemented. Any proposed changes to the ground floor levels or mitigation measures shall only be permitted with the express prior written consent of the planning authority.

Reason: In the interest of public health.

15. Noise monitoring locations for the purposes of the construction phase of the proposed development shall be agreed in writing with the planning authority prior to commencement of development.

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

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 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. The developer shall pay to the planning authority a financial contribution in respect of the Cork Suburban Rail Project 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 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.

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

Dated this day of 2019.