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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 4110/17**

**Appeal** by Ciaran Flynn of 16 Jervis Park Apartments, Jervis Street, Dublin against the decision made on the 16<sup>th</sup> day of March, 2018 by Dublin City Council to grant subject to conditions a permission to Abarta Investments PLC care of Virtus Project Management of The Glasshouse, 5<sup>th</sup> Floor, 11 Coke Lane, Smithfield, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Demolition of the existing three-storey over basement building and construction of a new eight-storey over single basement level building to comprise a 218 number bedroom hotel and a gym at basement and part ground floor level. The proposed hotel includes a reception, bar/restaurant/lobby area including outdoor seating area at ground floor level to the north, and back of house areas at ground floor level, ancillary hotel facilities at part of the basement level, and 218 number bedrooms from first floor to seventh floor level. An ESB substation and switchroom will be provided at ground floor level to Wolfe Tone Street. 22 number bicycle parking spaces are provided at ground floor level. The total gross floor area of the proposed development is 9,205 square metres, comprising 1,207 square

metres for the gym and 7,998 square metres for the hotel. The proposed development includes proposed signage zones to the south elevation at ground floor level (for the gym) and to the south-east elevation at ground floor level (for the hotel), screened rooftop plant, public realm enhancement to the west side of Jervis Street and to the east side of Wolfe Tone Street, including increased footpath widths, and all associated and ancillary works, all on a 0.127 hectare site at Twilfit House, 137-140 Abbey Street Upper, 57-60 Jervis Street and 1-4 Wolfe Tone Street, 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 location of the development on lands zoned Z5 in the Dublin City Development Plan 2016-2022, and to the relatively low density usage and arrangement of the existing building on site, which is neither a protected structure nor located within a designated Architectural Conservation Area, it is considered that, subject to compliance with the conditions set out below, the proposed replacement building, by reason of its design and the provision of active frontage on each elevation, would be in accordance with the policies and objectives of the development plan, would not seriously injure the amenities of property in the vicinity and would, otherwise, 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 on the 20<sup>th</sup> day of February 2018, 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. Full details of the treatment of the boundary between the site and Wolfe Tone Park shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenity of Wolfe Tone Park.

3. Details of the rooftop plant screening shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

4. Prior to commencement of development, details of the materials, colours and textures of all external finishes, relating to both the building and the public realm, including paving and outdoor seating, shall be submitted to and agreed in writing with the planning authority. All finishes shall be of a high quality and the materials used in the public realm areas shall harmonise with those of the building. A panel of the proposed finishes shall be placed on site to allow the planning authority adjudicate on the proposals. Construction materials and detailing shall adhere to the principles of sustainability and energy efficiency and high maintenance detailing shall be avoided.

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

5. Prior to occupation of the building, full details of the uses in the gym/retail unit at ground floor level, to include a drawing showing the delineation of the space between the two uses, shall be submitted to and agreed in writing with the planning authority. All signage to the unit(s) shall be the subject of a separate application.

**Reason:** In the interest of clarity.

6. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, 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:** In the interest of visual amenity, and in order to allow the planning authority to assess the impact of any such advertisement or structure on the amenities of the area.

7. 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.

8. The developer shall comply with the following roads and traffic requirements:
  - (a) Prior to commencement of development, exact details of the proposed extended loading bay on Wolfe Tone Street shall be submitted to and agreed in writing with the planning authority. The provision of the extended loading bay if required and any other proposed alterations to the road network shall be to the planning authority's requirements and at the developer's expense.
  - (b) Prior to commencement of development, the developer shall liaise with the TII (Transport Infrastructure Ireland) and/or the Luas operator to ascertain any requirements. The development shall comply with the Code of Practice for Working On, Near or Adjacent to the Luas Tramway.

- (c) Prior to commencement of development, and on appointment of a contractor, a detailed Construction Management Plan and Traffic Management Plan shall be submitted to and agreed in writing with the planning authority. This plan shall provide details of intended construction practice for the development, including traffic management, noise management measures and off-site disposal of construction/demolition waste. The developer shall liaise with the planning authority and Transport Infrastructure Ireland (TII) during the construction period.

**Reason:** To ensure a satisfactory standard of development.

- 9. The developer shall comply with the following archaeological requirements:
  - (a) No construction or site preparation work shall be carried out on the site until all archaeological requirements of the planning authority are complied with.
  - (b) In-situ burials shall not be disturbed in the course of this development except in exceptional circumstances and with the prior written agreement of the planning authority.
  - (c) Any grave slabs disturbed in the course of development shall be recorded, conserved, stored at the developer's expense and returned to site and presented on site in an arrangement agreed in writing with the planning authority.
  - (d) The developer shall employ a suitably-qualified archaeologist prior to commencement of development to assess the site, monitor all site development works, including demolition, and to advise on best archaeological practice.

- (e) The archaeologist employed by the developer shall prepare, for the written agreement of the planning authority in advance of any other site preparation works, a detailed plan and method statement, including appropriate timeline for completion, for the carrying out of the following works as part of the development:
- (i) the safe extraction, removal and storage of the estimated 125 gravestones, located adjacent to the application site's northern boundary, that would otherwise be impacted upon by the proposed development;
  - (ii) the assessment and analysis of the stone slabs and inscriptions and provision of a methodology for conservation works on the stone slabs and inscriptions;
  - (iii) the reinstatement of the circa 125 grave stones within Wolfe Tone Park;
- (f) The developer shall retain a suitably qualified archaeologist and/or built heritage specialist to make a full record of Twilfit house prior to demolition to a standard agreed in writing with the planning authority.
- (g) Following demolition works, archaeological testing shall be carried out in advance of construction works and shall be subject to an archaeological testing licence application and method statement. The testing programme shall pay due regard to the location of the crane pad and proposed piling locations.

- (h) Where archaeological material is shown to be present, a detailed Impact Statement shall be prepared by the archaeologist, which shall include specific information on the location, form, size and level (corrected to Ordnance Datum) of all foundation structures, ground beams, floor slabs and 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 (corrected to Ordnance Datum) 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.
- (i) No subsurface work shall be undertaken in the absence of the archaeologist without his/her express consent. The archaeologist retained by the project developer to carry out the assessment shall consult with the planning authority (with reference to the City Archaeologist) in advance regarding the procedure to be adopted in the assessment.
- (j) A written and digital report (on compact disc) containing the results of the archaeological assessment shall be forwarded on completion to the planning authority to determine the further archaeological resolution of the site.



- (k) The developer shall comply in full with any further archaeological requirements of the planning authority, 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.
- (l) The developer shall make provision for archaeological excavation and any subsequent research and report compilation in the project budget and timetable.
- (m) Before any site works commence the developer shall agree the foundation layout in writing with the planning authority.
- (n) Following submission of the final report to the planning authority, 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, 138-144 Pearse Street, Dublin 2.

**Reason:** In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

10. Prior to the first occupation of the development, the developer shall submit to and agree in writing with the planning authority, a scheme for the effective control of fumes and odours from the premises to be implemented and permanently maintained within the development.

**Reason:** In the interest of the amenities of both the immediate neighbours and general surroundings.

11. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 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 residential amenities of property in the vicinity.

12. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

13. 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.

14. 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.

15. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

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 Luas Cross City Scheme 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.

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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.**