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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 4284/17**

**Appeal** by Aisling Loy and Vinny Ramiah care of RW Nolan and Associates of 37 Lower Baggot Street, Dublin, and by MKN Property Group and Tifco Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin and by Others against the decision made on the 30<sup>th</sup> day of May, 2018 by Dublin City Council to grant subject to conditions a permission to MKN Property Group and Tifco Limited in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Demolition of the existing two to four number storey buildings and construction of a six number storey over basement, 178 bedroom hotel of approximately 5,775 square metres with terraces at the fourth floor facing south and east, as well as a setback terrace (non-public access) at the fourth floor (northern elevation); all ancillary areas to include staff areas, external service yard to the west, welcome/reception, bar, licensed restaurant, gym, meeting room/business library, laundry and electric substation and transformer all located at ground floor level; 16 number cycle spaces at ground floor level, hotel bedrooms at ground floor (fronting onto Grand Canal) and from first to fifth floor levels across the building; ancillary basement areas to include plant room, staff-room/kitchen and changing areas;

canopy to entrance onto existing plaza, roof plant area and green roof and all ancillary site development/boundary works, all at 17 Portobello Harbour and Portobello College, Portobello Harbour, 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 and to the Z1 zoning of the subject site, to the pattern of development in the area and to the planning history of the site, the Board considered that, subject to compliance with the conditions set out below, the proposed development having regard to the scale, design and proposed use as a hotel would be in accordance with the zoning objective for the area, would be acceptable in terms of the visual and residential amenities of the area, would not detract from the character and setting of Portobello Plaza and Portobello House, (a Protected Structure) and would provide for a welcome animation of the western edge of the plaza which would enhance the character of the area and achieve an appropriate design response to the sites context. 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 as to the acceptability of a hotel at this location. Furthermore, the Board considered that the height, scale and nature, as proposed, was acceptable in terms of visual and residential amenities of the area and did not consider it necessary to reduce the height by one floor as required by the planning authority. It was considered that the proposed development integrated successfully into the urban setting and did not injure the character of the Protected Structure, did not represent overdevelopment or intensification of the site and would not set an undesirable precedence for future development in the area.

## **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 proposed development shall be amended as follows;
  - (a) The reduction in parapet height by 600 millimetres on the southern elevation and by 275 millimetres along the northern elevation as referred to in the further information requested by the planning authority on the 19<sup>th</sup> day of January, 2018 shall be complied with.
  - (b) The three bedrooms at fifth floor level along the northern elevation to Portobello Harbour shall be omitted in accordance the further information requested by the planning authority on the 19<sup>th</sup> day of January, 2018.
  - (c) The entrance canopy shall be omitted.

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

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

3. 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.

4. 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.

5. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

**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. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

9. (a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeq.T.
- (b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedance criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.
- (c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either

- (i) during a temporary shutdown of the specific noise source, or
  - (ii) during a period immediately before or after the specific noise source operates.
- (d) When measuring the specific noise, the time (T) shall be any five minute period during which the sound emission from the premises is at its maximum level.
- (e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to use of the premises. An acoustical analysis shall be included with this submission to the planning authority.

**Reason:** In order to protect the amenities of property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours.

10. 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. 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.

11. 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.

12. The developer shall pay to the planning authority a financial contribution in respect of the 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            2019.**