



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 3853/17

Appeal by Anita Kelly care of KRA of E11a Network Enterprise Park, Kilcoole, County Wicklow and by Dominic and Eileen Moriarty care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin against the decision made on the 27th day of June, 2018 by Dublin City Council to grant subject to conditions a permission to Majick Hour Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The application site is bound by Dolphin's Barn Street to the east, number 51 Dolphin's Barn Street to the north east, number 7 Poole Terrace to the south and boundaries of rear gardens of the residential properties located on Reuben Street and Emerald Square to the west and north of the application site. The proposed development will consist of the demolition of the existing former factory building to the rear of the site and buildings which front onto Dolphin's Barn Street (numbers 43-50) which have a total gross floor area (GFA) of 3,243.5 square metres, and the construction of a part four to part seven-storey residential and retail building to Dolphin's Barn Street, stepping down to three storeys to the rear, over basement and ground floor retail and car park. The total gross floor area including basement

car parking of the new mixed use building is 13,150 square metres. The proposed development comprises one number retail unit at ground floor level with a total gross floor area of 1,405 square metres and 70 number apartments from first to sixth floor level comprising 41 number one bedroom and 29 number two bedroom (proposed as Build to Let accommodation). The proposal includes two residential entrances at ground floor level and communal facilities (with a gross floor area of 410 square metres) at first floor to sixth floor level. Balconies are provided for the residential apartments on the eastern, western, southern and northern elevations. Vehicular access is provided from Dolphin's Barn Street and the development includes a total of 67 number car parking spaces at basement level and 18 number car parking spaces, a bike store providing 80 number bicycle parking spaces and a bin store at ground floor level. The proposal also includes landscaping works including a communal open space area at first floor level measuring 693 square metres and all associated site development works; all at 43-50 Dolphin's Barn 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

It is considered that the proposed development of a brownfield city centre site, where disused and derelict land and buildings will be replaced by 70 residential build to rent apartments and a retail unit 1 of 1135.8 square metres, within an area zoned for the provision and improvement of mixed-services facilities, and where objectives of the Liberties Local Area Plan include the objective for securing increased height along Dolphin's Barn Street, which the proposed development will provide, subject to compliance with the conditions set out below, would supply necessary rental housing and valuable retail provision and would not seriously injure the amenities of adjoining residential properties. 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 amended by the further plans and particulars submitted to the planning authority on the 18th day of May, 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. Prior to the commencement of development on site, the applicants shall submit to, and agree in writing with, the planning authority the following:-
- (a) detailed drawings and documentation of all perimeter site boundary walls including heights and finishes proposed,
 - (b) details of privacy screens/walls for all external communal areas and the recreation courtyard area. The boundary treatment to northern and western perimeter of this courtyard shall be a minimum of 1.8 metres in height,
 - (b) detailed proposals in relation to the communal area at the northern end of the site adjoining apartments to ensure that this area is inaccessible, and at the western end of the site between the apartment block and the void to ensure that this area is inaccessible,
 - (c) details of privacy screens along the western boundary of south facing terraces at first and second floor,
 - (d) details showing that the west facing windows to the one-bedroom apartment, the two-bedroom apartment, and the corridor, close to the western boundary, at third and fourth floor levels, shall be redesigned to have oblique views and not overlook adjoining residences, and

- (f) details of privacy screens along the southern end of balcony projections at the rear of the portion of building fronting Dolphin's Barn Street, near the southern end of the site, at first to sixth floor levels.

Reason: In the interest of the residential amenities and the proper planning and sustainable development of the area.

- 3. 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 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.

No construction or site preparation work may be carried out on the site until all archaeological requirements of the City Archaeologist are complied with. No subsurface work shall be undertaken in the absence of the archaeologist without their express consent. The archaeologist retained by the project to carry out the assessment shall consult with the City Archaeologist in advance regarding the procedure to be adopted in the assessment.

Prior to commencement of development, the developer shall agree the foundation layout with the City Archaeologist.

Following submission of the final report to the City Archaeologist, 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.

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.

4. The record of the historic building grouping, comprising the terrace of houses numbers 43-50 Dolphin's Barn Street, shall be finalised by a qualified historic buildings expert when each building is cleared of debris and rendered safe, enabling access to all areas. Further mitigation may arise from this survey, such as a measured survey or archaeological monitoring.

Reason: In order to mitigate the loss of the built heritage which this site possesses.

5. Details of the external wall, roof and window finishes of the development hereby permitted shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and no alterations to same shall be permitted without the prior written agreement of the planning authority.

Reason: In the interest of the proper planning and sustainable development of the area.

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 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.

Reason: In the interest of sustainable waste management.

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 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.

9. 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.

10. (1) No signage shall be erected on foot of this permission. Signage for the retail unit and residential scheme hereby permitted shall be the subject of a separate planning application for same.
- (2) No free-standing advertising structures associated with the proposed development shall be erected on the adjoining public pavement or at the entrance to the retail unit.
- (3) All windows shall be maintained at all times, and the glazing shall be kept free of all stickers, posters and advertisements.
- (4) Opening hours of the retail unit hereby permitted shall not extend beyond 0700 to 2300 hours Monday to Sunday. Any alterations to same shall be subject to the prior written consent of the planning authority.

Reason: In the interest of the proper planning and sustainable development of the area.

11. (1) Prior to the occupation of development, a Residential Travel Plan shall be submitted to, and agreed in writing with, the planning authority. This shall identify specific measures aimed at encouraging sustainable modes of transport. The developer shall undertake to implement the measures outlined in the Residential Travel Plan and ensure that future tenants of the proposed development comply with this strategy.

- (2) A Mobility Manager shall be appointed for the overall scheme and shall oversee and co-ordinate the preparation and implementation of the Residential Travel Plan. The Mobility Manager shall monitor and review the Residential Travel Plan at intervals to be agreed with Dublin City Council. The Mobility Manager shall carry out travel habit surveys of residents and identify actions for the applicant and future tenants of the development, so that progress towards meeting the targets set out in the plans can be maintained. This review may, from time to time, result in the adjustment of targets.

Reason: In the interest of sustainable transportation.

12. (1) Prior to the occupation of development, a Car Parking Management Plan shall be submitted for the written agreement of the planning authority. This plan shall indicate how spaces will be assigned and segregated by use and how use of the car parking will be continually managed. Specific details regarding the allocation and management of the ten number residential car parking spaces which will not be reserved as Car Club spaces shall be provided.
- (2) Eight number car parking spaces within the development shall be permanently allocated to a Car Club for use solely by residents of the development.
- (3) Car spaces shall not be sold, rented or otherwise sub-let or leased to other parties.

Reason: In the interest of orderly development and traffic safety.

13. (1) Unless otherwise agreed in writing with the planning authority access to the parking area shall be via a fob-activated automatic barrier which shall be set back a minimum of 12 metres from the Dolphin's Barn Street.
- (2) At the vehicular access/exit point to the development, measures shall be implemented, including contrasting materials, signing, and road marking to ensure that vehicles entering/leaving the development are aware that pedestrians/cyclists have priority across the site entrance and that vehicles must yield right-of-way. Details in this regard shall be agreed in writing with the planning authority prior to commencement of development.
- (3) Prior to commencement of development, the developer shall contact the planning authority to ascertain their requirements regarding the removal of pay and display parking spaces and the provision of a loading bay. Details of any works shall be agreed in writing with the planning authority and the works shall be carried out at the developer's expense.
- (4) Details of the materials proposed in public areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (5) Cycle parking shall be secure, conveniently located, sheltered and well lit. Key/fob access shall be required for bicycle compounds. Cycle parking design shall allow both wheel and frame to be locked.

- (6) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: In the interest of traffic safety.

14. 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 section 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 of the area.

15. Prior to the commencement of any development, the applicant shall submit, for the written consent of the Planning Authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain in ownership of and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold or rented separately for that period.

Reason: In the interest of the proper planning and sustainable development of the area.

16. Prior to the commencement of development, the applicants shall submit, for the written agreement of the planning authority, details of the Management company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

Reason: In the interests of orderly development and the proper planning and sustainable development of the area.

17. Prior to the expiration of the 15-year period for Build-to-Rent use on site, the applicant shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development.

Reason: In the interests of the proper planning and sustainable development of the area.

18. The development hereby permitted shall operate in accordance with the definition of Build-to-Rent developments as set out in the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” issued by the Department of Housing, Planning and Local Government in March, 2018 and shall be used for long term rentals only. No portion of this development shall be used for short term lettings.

Reason: In the interest of the proper planning and sustainable development of the area.

19. Proposals for a development name, and for unit identification and numbering and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed name shall be based on local historical or topographical features, or other alternative acceptable to the planning authority, and shall be in both Irish and English. Thereafter, the name and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

20. The development of an ESB substation shown on drawing number P1002 revision B submitted to the planning authority on the 18th day of March, 2018, shall be not be permitted on foot of this permission.

Reason: In the interest of clarity and to define the terms of this permission.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit or a bond of an insurance company or other security, to secure the satisfactory maintenance, completion and any reinstatement of services/infrastructure currently in the charge of Dublin City Council, including roads, open spaces, car parking spaces, public lighting sewers and drains, and to secure the satisfactory completion and maintenance of services/infrastructure until taken in charge by a Management Company or by the local authority of roads, open spaces, car parking spaces, public lighting sewers and drains.

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 secure the satisfactory completion and maintenance of the development until taken in charge.

22. 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.

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

Dated this day of 2018.