



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 4416/17

Appeal by Napella Limited care of Doyle Kent Planning Partnership Limited of 71 Carysfort Avenue, Blackrock, County Dublin against the decision made on the 26th day of July, 2018 by Dublin City Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

Proposed Development: Minor layout and elevational modifications to previous permission planning register reference number 3358/15, including omission of originally proposed facade cladding. Two new 6.4 metres high silos to north side of building. New ground floor visitor event space (409 square metres). New first floor visitor bar and walkway (193 square metres) at Units 3 and 4 Stag Industrial Estate, Ballyboggan Road, Dublin.

Decision

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to REMOVE conditions numbers 4, 5 and 6 and the reasons therefor, to AMEND conditions numbers 2 and 3 so that they shall be as follows for the reasons set out, and to ATTACH a further condition so that it shall be as follows for the reason set out.

2. The developer shall pay to the planning authority a financial contribution of €13,521 (thirteen thousand, five hundred and twenty one euro) 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. The application of any indexation required by this condition 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.

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

3. The developer shall pay to the planning authority a financial contribution of €7,334 (seven thousand, three hundred and thirty-four euro) in respect of Luas Cross City - Saint Stephen's Green to Broombridge Line, 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. The application of any indexation required by this condition 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.

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.

Additional Condition

The visitor centre facility and the private functions/corporate/group/ticketed events use shall be operated wholly ancillary to the primary use of the premises as an operational brewery and the said ancillary uses shall cease and expire in the event that brewery operations cease on site.

Reason: In the interest of clarity.

Reasons and Considerations

Having regard to the provisions of the Dublin City Development Contribution Scheme 2016-2020 and to the provisions of the Luas Cross City (Saint Stephen's Green to Broombridge Line) Supplementary Development Contribution Scheme, both of which provide an exemption from levies for a change of use from one commercial use to another, the planning authority erred in applying the levy under conditions numbers 2 and 3 to the 409 square metres area proposed for change of use, in addition to the 193 square metres area of new floor space.

Having regard to the character of the industrial area within which the site is located, the zoning objective for the site and the range of uses permitted thereon, the distance of the site to sensitive premises, the ancillary nature of the proposed visitor centre use and events centre use, and the scale of the events centre use which has been clarified in the appeal, it is considered that conditions numbers 4, 5 and 6 are unnecessary, and that an additional condition requiring the proposed visitor centre use and events centre use to be wholly ancillary to the primary use of the site as a brewery is necessary, in the interest of clarity.

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.

Michelle Fagan

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

Dated this day of 2019.