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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3513/18**

**Appeal** by Philip O'Reilly of 18 Grosvenor Place, Rathmines, Dublin against the decision made on the 10<sup>th</sup> day of September, 2018 by Dublin City Council to grant subject to conditions a permission to Dale Vision Limited care of Manahan Planners of 38 Dawson Street, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Demolition of the existing building, in the use as a licensed premises with roof garden and night club, while retaining part of the Victorian shopfront and the construction of a five-storey over basement with set-back top floor building (seven storeys in total). The new building (with a total floor area of 2,936 square metres) will be used as a boutique hotel containing a reception area with bar at ground floor, a total of 52 guest bedrooms on levels 1-4 a roof-top licensed restaurant and a basement containing a function room, a meeting room, staff facilities, storage and plant rooms. The proposed development will also contain services and all other ancillary works to service the hotel, all at 7-8 Lower Mount 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 provisions of the Dublin City Development Plan 2016-2022, to the prominent location of the site and to the nature, scale, layout and design of the proposed development, it is considered that the proposed development would provide a building of high-quality design and would constitute an appropriate form of development at the subject site. It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or other amenities of the area, would be acceptable in terms of its impact on the architectural and cultural heritage of the area and would be acceptable in terms of pedestrian and traffic safety. 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 agreed with Dublin City Council, that the proposed structure constituted an innovative contemporary building which will integrate comfortably within the streetscape. In this context, it is considered that the proposed development addresses and resolves the expressed concern under previous application planning register reference number 2614/17 (An Bord Pleanála reference number PL 29S.248729), wherein the Board determined that the scheme in that instance did not justify the demolition of the existing structure on the site.

In forming this opinion, the Board also noted the detail within the planning application documentation regarding the significant loss of original fabric and that given that the existing building is not a protected structure, its demolition and replacement with a modern building of high-quality design is warranted.

## **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 rooftop rear terrace (south-facing) shall not be used between the hours of 2330 and 0900 daily.

**Reason:** To protect the residential amenities of the area.

3. Details, including samples of the materials, colours and textures of all the external finishes to the 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.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, no additional plant, machinery or telecommunications structures shall be erected on the roof of the building, without a prior grant of planning permission.

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

5. Prior to commencement of the permitted use, detailed drawings of the proposed signage, including illumination/lighting details, shall be submitted to, and agreed in writing with, the planning authority.

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

6. No additional signage, advertising structures/advertisements, security shutters or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

7. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

8. Cycle parking shall be provided within the development, in accordance with current Development Plan standards and by reference to the Preliminary Mobility Management Plan, as lodged with the application. Details in this regard shall be agreed with the planning authority prior to occupation of the proposed development.

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

9. Water supply and drainage arrangements, including the 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. Measures for the control of odour emissions from the premises shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of public health and to protect the amenities of the area.

11. Site development and building works shall be carried out only between the hours of 0700 and 1800 from Mondays to Fridays inclusive, between 0800 and 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 construction of the development shall be managed in accordance with a construction 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 provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compound including area identified for the storage of construction waste;
  - (b) Location of areas for construction site offices and staff facilities
  - (c) Details of site security fencing and hoardings;
  - (d) Details of parking/transport facilities for site workers during the course of construction;
  - (e) Details of timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
  - (f) Measures to obviate queuing of construction traffic on the adjoining road network;
  - (g) Measures to prevent the spillage or deposit of clay rubble or other debris on the public road network;
  - (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of closure of any public road or footpath during the course of site development works;
  - (i) Details of appropriate mitigation measures for noise, dust and vibration and monitoring of such level;
  - (j) Containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

**Reason:** In the interest of amenities, public health and safety.

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 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. 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.

15. 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 the 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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**Chris McGarry**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2019.**