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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3131/18**

**Appeal** by Nina Cafolla of Broadway Entertainment, 8 Lower O'Connell Street, Dublin and by Suzanne O'Neill of DET Limited, Astor House, 29 Lower George's Street, Dún Laoghaire, County Dublin and by An Taisce of Tailors' Hall, Back Lane, Dublin against the decision made on the 12<sup>th</sup> day of November, 2018 by Dublin City Council to grant subject to conditions a permission to Wynn's Hotel Limited care of GVA Planning of 4<sup>th</sup> Floor, 2-4 Merrion Row, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a two-storey roof extension at a 623 square metres site. Removal of the existing lift overrun structure and lift motor room, water tanks, service plant, five number non-original roof lights and four number disused chimneys to the rear at roof level to facilitate the provision of a two number storey extension at sixth and seventh floor levels, with 776 square metres floor area with terrace areas of 92 square metres. The proposed works will also include the raising of five number chimneys by 450 millimetres, general fire safety upgrades and the replacement of an external steel fire escape and open walkways to the rear serving first to fifth floor

levels. The proposed extension comprises a part cantilevered structure with metal cladding on top of the existing six number storeys over basement Protected Structure, bringing the total height to 27.9 metres above ground (excluding lift overrun), increasing the total gross internal floor area by 831 square metres bringing the total gross floor area to 4,049 square metres. The proposal consists of the addition of 27 number ensuite bedrooms, terraces at sixth and seventh floor levels, a covered walkway across an existing lightwell at sixth and seventh floors to provide safe access and egress to bedrooms, perforated folding shutters in front of metal windows and terrace access doors from bedrooms within the pitched roof enclosure. The proposed roof structure will also incorporate perforated metal panels to provide natural ventilation to the new consolidated and concealed plant areas at roof level. The proposed fire safety works comprise fire protection upgrades to the existing internal staircase including new glazed fire screens at second to fifth floor levels, the provision of an enclosed firefighting stairs with metal cladding from first floor to seventh floor levels and new external covered walkways at first to fifth floor levels replacing the existing external steel fire escape stairs and open walkways. The proposed scheme also includes a new ventilated lobby to a new fire-fighting lift within the existing lift shaft servicing basement to seventh floor levels, the reconfiguration of the east elevation window at each of the first to fifth floor levels facing Harcourt Court, the relocation of the existing fire exit from the dining room at ground floor, the provision of a new emergency escape stairs from basement to ground floor with a new exit door to the rear courtyard with associated minor alterations to the existing external wall. The proposed development also includes sundry minor internal partition alterations to facilitate the new firefighting lobby, a new bespoke platform lift to the main entrance and all ancillary site development works, at Wynn's Hotel, 35-39 Abbey Street Lower, Dublin (a Protected Structure) as amended by the revised public notices received by the planning authority on the 17<sup>th</sup> day of October, 2018.

## **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,
- the location of the proposed development within the O'Connell Street Architectural Conservation Area,
- the protected structure which is included in the Record of Protected Structures Reference Number 8, and on the National Inventory of Architectural Heritage Register Number 50010276,
- the existing and historic use of the building as a hotel,
- the nature, scale, layout and design of the proposed development,

the Board 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 the planning authority that the site is located in a dense urban environment, that there is a need to ensure sustainable levels of development on scarce urban lands, and that the proposed development would not preclude development on neighbouring sites. The Board further considered that the development would not adversely affect the existing street environment of Harbour Court and would not seriously injure the amenities of neighbouring properties.

## **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 26<sup>th</sup> day of September, 2018 and the 17<sup>th</sup> day of October 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. 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 the visual amenities of the area.

3. Prior to commencement of development, the developer shall provide for the following:-
  - (a) The appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.
  - (b) The submission of details of all finishes and of all existing original features to be retained and reused where possible, including interior and exterior fittings/features, joinery, fenestration, plasterwork, features (cornices and ceiling mouldings), roofs, staircases including balusters, handrail and skirting boards.

All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

**Reason:** To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

4. 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.

5. 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.

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. 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.

8. The application shall comply with the following requirements of Irish Water:

The developer shall take note that there is an existing Irish Water (IW) Combined Sewer (1,450 Brick culvert) running through the site. A clear minimum distance of three metres shall be maintained between sewers and all structures on site. The exact location of this pipeline must be accurately determined on site prior to construction work commencing. No additional loading shall be placed on this sewer. Any damage to it shall be rectified at the developer's expense.

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

9. The developer shall comply with the following requirements of Transport Infrastructure Ireland:
- (i) The proposed development is located in close proximity to a Luas Line; the developer should ensure there is no adverse impact on Luas operation and safety. The development shall comply with the 'Code of Engineering Practice for Works on, near, or adjacent the Luas light rail system' issued by Transport Infrastructure Ireland.
  - (ii) Works are proposed to be carried out in close proximity to the Luas Overhead Conductor System (OCS). The applicant, developer or contractor will be required to apply for a works permit from the Luas Operator by virtue of the Light Railway (Regulations of Works) Bye-Laws 2004 (SI Number 101 of 2004) which regulates works occurring close to the Luas infrastructure in accordance with Transport Infrastructure Ireland's 'Code of Engineering Practice for Works on, near, or adjacent the Luas light rail system'. The developer shall be liable for all of Transport Infrastructure Ireland's costs associated with the removal and reinstatement of the Luas related building fixings and infrastructure. The permit application will require prior consultation, facilitated by the Luas operator, Transdev.
  - (iii) Overhead Conductor System (OCS) building fixing(s) are located on the façade of the proposed development.



- (iv) The developer shall submit a construction traffic management plan which shall identify mitigation measures for existing operational Luas infrastructure. The Construction Traffic Management Plan shall be agreed with Transport Infrastructure Ireland and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
  
- (v) The developer shall procure, prepare and submit a demolition and/or construction method statement for the agreement of Transport Infrastructure Ireland. The method statement should identify all interfaces including mitigation measures for unacceptably high risks. The method statement should demonstrate resolution of all issues outlined above when viewed in the context of the existing operational Luas infrastructure. The demolition and/or construction method statement shall form part of a finalised Construction Management Plan which shall also be agreed with Transport Infrastructure Ireland and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
  
- (vi) The developer shall submit a Construction Management Plan which shall identify mitigation measures for existing operational Luas infrastructure. The Construction Management Plan shall be agreed with Transport Infrastructure Ireland and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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 interest of public health and to protect the amenities of the area.

11. The LAeq level measured over 15 minutes (daytime) or 5 minutes (night-time) at a noise sensitive premises when the plant is operating shall not exceed the LA90 (15 minutes day or 5 minutes night) by five decibels or more, measured from the same position, under the same conditions and during a comparable period with no plant in operation.

**Reason:** In order to safeguard the amenities of adjoining premises, residential amenity, and the general surroundings.

12. 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 amenities of property in the vicinity.

13. 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(s) including area(s) 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 the 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.

A record of daily checks that the works are being undertaken in accordance with the Construction and Demolition Management Plan, shall be kept for inspection by the planning authority.

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

14. 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.

15. 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.

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

**Dated this            day of            2019.**