



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 4170/18.

Appeal by The Dolphin care of Thornton O'Connor Town Planning of 1 Kilmacud Road Upper, Dundrum, Dublin against the decision made on the 10th day of December, 2018 by Dublin City Council to refuse permission for the proposed development.

Proposed Development: Demolition of extensions to the rear of numbers 22-24 Aungier Street (160 square metres) and the provision of a new-build, part 1.5/part two-storey over basement bar/restaurant to the rear of numbers 23 and 24 Aungier Street and number 40 Bow Lane East comprising basement, ground and first floor (part mezzanine and part double-height space of ground floor) level accommodation (391 square metres) linking into proposed restaurant/bar floor area in numbers 23 and 24 Aungier Street provided through a connection between numbers 23 and 24 at ground floor level and the change of use of part of the ground floor of number 23 Aungier Street and the basement and ground floor of number 24 Aungier Street from retail/non-retail services/storage to bar/restaurant, providing an overall bar/restaurant measuring 700 square metres, the utilisation of the existing basement at number 22 Aungier Street for hotel/bar/restaurant storage (73 square metres),

the utilisation of the existing retail space at the ground floor of number 22 Aungier Street as retail or café (32 square metres) and access to the upper floor hotel accommodation (16 square metres), the provision of hotel access at ground floor level of numbers 23 and 24 Aungier Street to the proposed upper level accommodation (34 square metres), the change of use of number 23A Aungier Street from retail to internal guest route for hotel residents linking to the hotel under construction (34 square metres) and the change of use of residential accommodation and vacant floorspace to 20 number hotel suites/bedrooms from first to third floor levels of numbers 22-24 Aungier Street, ranging in size from 15.8 square metres to 40.1 square metres.

The development will also consist of: lowering the basement floor of number 24 Aungier Street, the connection of the basement of number 24 into the new-build basement, refurbishment works to the Protected Structures including general internal and external associated works for the repair, maintenance, change of use and upgrading of the buildings, new and upgraded shopfronts for numbers 22-24 Aungier Street, the provision of an external terrace for the proposed bar/restaurant, a bin store, plant, landscaping, signage, the provision of a new sliding gate at the end of the archway under number 22 Aungier Street replacing a previous sliding gate and all other associated site works above and below ground. All at numbers 22, 23 (incorporating 23A) and 24 Aungier Street (Protected Structures) and number 40 Bow Lane East, Dublin on a site measuring 665 square metres. The development will form an operational addition to the permitted hotel development on lands known as the rear of numbers 19-22 Aungier Street, number 40 Bow Lane East, Store A and Store B (also known as Unit 1 and Unit 2), Bow Lane East, number 12 Bow Lane East and number 11 Bow Lane, Dublin as granted permission under planning register reference number 2651/08, An Bord Pleanála appeal reference number PL 29S.231043 as extended by Dublin City Council under planning register reference number 2651/08x1, planning register reference numbers 3035/15, 2413/16 and 3309/16, which is currently under construction.

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 nature, scale and design of the proposed development, the pattern of development in the area, the provisions of the Dublin City Development Plan 2016-2022, the comprehensive nature of the proposed development which includes restoration, refurbishment and change of use of three significant buildings comprising numbers 22, 23 (incorporating number 23A) and 24 Aungier Street, Dublin which are designated as protected structures, and demolition of existing extensions and construction of new 1.5 storey extension over basement to the rear of these properties and at number 40 Bow Lane East, it is considered that, subject to compliance with the conditions set out below, the proposed development in an area zoned 'City Centre', including the proposed new build and basement at the rear, would be an appropriate re-use of buildings which are in a poor state of repair and part dilapidated, would not adversely affect the architectural character or integrity of the historic buildings on site or in the vicinity of the site, would not be

overdevelopment of the site, would not compromise the animation of the wider streetscape, and 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 considered that the proposed hotel with bar/restaurant and retail/cafe development would be an appropriate re-use of the buildings in an area zoned 'City Centre'. It was considered that the alterations to the historic buildings would not have a significant impact on the original historic fabric and would likely be no more invasive than the alterations that would be needed to create residential accommodation. The Board concurred with the Inspector in respect to the proposed basement to the rear of number 24 Aungier Street which it is considered would not be in contravention of current Dublin City Development Plan policies.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and with the further plans and particulars received by An Bord Pleanála on the 15th day of January, 2019, 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to the uses granted under this proposed development, unless otherwise authorised by a prior grant of planning permission.

Reason: To protect the amenities of property in the vicinity.

3. The proposed development shall be amended to omit the proposed sliding gate at the end of the archway under number 22 Aungier Street.

Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to protect the setting of the Protected Structures.

4. Prior to commencement of development, the developer shall make a record of the existing Protected Structures. This record shall include:-
 - (a) a full set of survey drawings to a scale of not less than 1:50 to include elevations, plans and sections of the structures, and
 - (b) a detailed, labelled, photographic survey of all internal rooms (including all important fixtures and fittings), the exterior and the curtilage of the buildings.

This record shall be submitted to the planning authority prior to commencement of development and one copy of this record and a full set of drawings of the proposed works to the Protected Structures shall be submitted to the Irish Architectural Archive.

Reason: In order to establish a record of these Protected Structures.

5. All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and in the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011 and be supervised by a qualified conservation architect (or equivalent). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork, historic partitions within the buildings and joinery and shall be designed to cause minimum interference to the buildings 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.

6. A Service Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This shall address the following:
 - (a) Deliveries to be carried out outside of peak hours.
 - (b) How deliveries will avoid unduly impacting upon surrounding road network and specifically bus lanes.
 - (c) Provide details of the types of delivery vehicles to be used.

Reason: In the interests of residential amenity and traffic safety.

7. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details of all the external finishes, materials, treatments and colours for the historic buildings and for the proposed new building.

Reason: In the interest of visual amenity.

8. Details for the effective control of fumes and odours from the bar/restaurant/cafe areas 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.

9. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site or any adjoining lands under the control of the developer, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

10. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunications aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

11. Access, servicing/loading arrangements and any works to footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works and details of these shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenities and public safety.

12. Water supply and drainage arrangements, including the disposal of surface of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

13. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interests of visual and residential amenity.

14. 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 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.

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.

15. 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 and a Traffic Management Plan for the construction phase.

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

16. A plan containing details for the management of waste and recyclable materials 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 recyclable materials, in the interest of protecting the environment.

17. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

18. 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 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 Development Contribution Scheme made under section 48 of the Act be applied to the permission.

19. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City 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.

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

Dated this day of 2019.