



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 2407/18

Appeal by Clydaville Investments Limited trading as The Kilkenny Group care of Future Analytics Consulting Limited of 23 Fitzwilliam Square (South), Dublin and by others against the decision made on the 18th day of December, 2018 by Dublin City Council to grant subject to conditions a permission to Ternary Limited care of Stephen Ward Town Planning and Development Consultants Limited of Jocelyn House, Jocelyn Street, Dundalk, County Louth in accordance with plans and particulars lodged with the said Council:

Proposed Development: The number of storeys on the existing buildings on the site varies up to a maximum of eight storeys with roof-top plant and equipment over two basement levels. The development will consist of the demolition, excavation and clearance of all existing buildings and structures on the site including basements other than the existing Kilkenny Design Store and annex 1,455 square metres and associated basement areas of 1,432 square metres (notated on the planning application drawings as 'SG1' and 'SG2' at B-1) which do not form part of the demolition/construction proposals. The western boundary walls to the rear of the protected structures fronting Frederick Street South and rear of 5 and 16-19 Nassau Street will be

demolished and new boundary walls constructed. In addition to the demolition of the buildings, the development also provides for the demolition of the two existing basements (excluding the basement levels beneath Setanta Place which are retained and remodelled internally), and car park ramps from Setanta Place. Following the above demolitions, excavations and site clearance the development provides for the construction of new office building extending to eight storeys in height including set-backs at the sixth, seventh and eighth storeys over four basement levels (the two basement levels beneath Setanta Place which are retained and remodelled and are notated on the planning application drawings as 'SG1' and 'SG2' at basement level B-1) and new car park access/egress ramps off Setanta Place. The existing vehicular connection beneath Setanta Place between the application site and public car parking spaces in the building known as 10-11 Molesworth Street will be reinstated. The proposed basement levels will contain 211 car parking spaces (of which 141 will be for public use with the balance, that is, 70 for private use). The number of on-site car parking spaces on the overall site will be reduced from the existing 319 spaces to 211 spaces. The basement areas will also contain 300 bicycle parking spaces along with associated drying areas, bicycle repair facilities, showers and locker/changing/storage areas, accessed via a dedicated cycle access/egress ramp off Setanta Place, circulation, waste receptacle areas, plant and equipment and tenant facilities. Service and deliveries will be from Nassau Street and Setanta Place and via the basement areas. A swimming pool and gymnasium are proposed at ground and B-1 levels. The development incorporates sustainable development measures including roof mounted photovoltaic cells (500 square metres), green roof areas, rain water harvesting, air-sourced heat-pumps and attenuation tank. The pedestrian link between Nassau Street and Setanta Place will be repositioned and upgraded. It is also proposed to relocate the existing mosaic mural known as the "Tain Wall" from the western boundary wall forward towards Nassau Street. The proposal includes roof terraces at fifth, sixth and seventh floor level to the northern, eastern and western elevations facing towards Nassau Street, South Frederick Street and Kildare

Street respectively. The main entrance to the proposed development will be off Nassau Street, with secondary entrances off the pedestrian link and Setanta Place. A pedestrian entrance is also provided off Kildare Street. The proposed development provides for one number double ESB sub-station fronting Setanta Place along with all associated site development works including landscaping and boundary treatments and air in-take and out-let fans and ducts/vents including screened roof top mounted plant and equipment including zone for communications equipment (satellite dishes/aerials) at seventh and eighth storeys, all at site known as “The Setanta Centre”, 6-15, Nassau Street, Dublin, and including a building at Number 44 Kildare Street (known as Transport House - at the junction of Setanta Place and Kildare Street). The proposed development site extends to 5,857 square metres in area and will have a gross floor area of 37,722 square metres, including basement areas of 14,970 square metres. The application site is bounded by Nassau Street to the north and the rear of the buildings fronting Nassau Street, Setanta Place to the south (including existing basement levels beneath Setanta Place street level), to the east by Kildare Street and the rear of buildings fronting Kildare Street, and to the west by the rear buildings fronting Frederick Street South. The planning application relates to development which adjoins the rear of protected structures fronting 22-30 Frederick Street South, the rear of Number 5 and 16-19 Nassau Street and the rear of 45-46 Kildare Street.

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:

- (a) the provisions of the Dublin City Council Development Plan 2016-2022,
- (b) the existing pattern of development in this city centre location,
- (c) the design, scale, height and layout of the proposed development, and
- (d) the submissions and observations on file,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with Development Plan policy, would not detract from the visual amenities of the area or the character and setting of the adjoining protected structures or the Trinity Architectural Conservation Area, would be acceptable in the context of the amenities of adjoining properties and existing commercial operations on site. 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 the 15th day of August, 2018 and the 23rd day of November, 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 interests of clarity.

2. The façade treatment along Nassau Street shall be as per the elevation submitted as clarification of further information on the 23rd day of November, 2018 and feature the fascia cladding above the existing shop unit lowered by one metre.

Reason: in the interest of visual amenity.

3. Details of materials, colours and textures of all external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

4. The developer shall comply with the following conservation requirements:
 - (a) A Conservation Architect shall be employed to devise, manage, monitor and implement the works on site and to ensure adequate protection of the adjacent protected structures and their boundaries during the course of the works.
 - (b) All works hereby approved shall be carried out in accordance with the “Architectural Heritage Protection Guidelines for Planning Authorities” issued by the Department of Arts, Heritage and the Gaeltacht, in 2011.

Reason: To ensure that the integrity of the adjacent protected structures is maintained and that all works are carried out in accordance with best conservation practice.

5. The removal, storage, refurbishment and reinstatement of “An Tain” mural shall be carried out as detailed in the methodology statement received as part of the further information submitted on the 15th day of August 2018 and in consultation with the Kinney family.

Reason: To ensure the integrity of the mural is maintained and all works are carried out in accordance with best practice conservation practice.

6. 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 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.

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

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

8. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of permission.

Reason: In the interest of visual amenity.

9. 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 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.

10. Prior to the occupation of the development a Mobility Management/Traffic Strategy for the proposed development shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of encouraging the use of sustainable modes of transport for the users of the site.

11. Prior to the commencement of construction works on the site the applicant shall liaise on construction vehicle traffic management arrangements with the Railway Procurement Agency.

Reason: In order to avoid conflict with works involved in the construction of the Luas Cross City.

12. Drainage requirements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development and to prevent pollution.

13. 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 traffic management, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and the amenities of the area.

14. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

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 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 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.

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

Dated this day of 2019.