



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 2808/19

Appeal by Paula Kinsella of 30 Macken Villas, Macken Street, Dublin against the decision made on the 12th day of June, 2019 by Dublin City Council to grant subject to conditions a permission to Bartra Development Company Limited care of BMA Planning of Taney Hall, Eglinton Terrace, Dundrum, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a 10 storey over basement office development with setbacks at fifth and seventh floor levels and external terrace areas at fifth, sixth and seventh floor levels with a gross floor area of 19,856 square metres. The proposed accommodation will consist of office (designed for single or multiple tenancies) and ancillary uses with associated lift and stair cores with pedestrian, cycle and vehicular access from Grand Canal Quay. The development of the site will be facilitated by removal of the existing fill material within the site to create a new ground level fronting Grand Canal Quay and modifications to the existing eastern boundary wall to Grand Canal Quay (currently circa 45 metres in length) involving demolition of circa 15.8 metres of the wall and the creation of openings within the remaining circa 29.2 metres to provide visual and physical access to the proposed office accommodation behind. The proposed ground floor accommodation

comprises office reception and foyer areas fronting Grand Canal Quay with office and ancillary accommodation to the rear. A proposed landscaped access route separates the proposed office block from the existing boundary wall with Clanwilliam Square to the south which is to be structurally secured and retained. This route provides access to the rear (western end) of the block which accommodates ancillary accommodation including bicycle parking (199 number spaces), bin storage, plant rooms, staff facilities and an ESB substation. A car lift provides access to the basement accommodation incorporating 25 number car parking spaces and ancillary plant and storage rooms. Above ground floor level accommodation includes a mezzanine floor level with office and additional ancillary plant and storage rooms and eight levels of office accommodation above. Permission is also sought for hard and soft landscaping within the site, external lighting, screened plant area at eighth floor level and all ancillary site and development works. The existing Macken Street entrance will be maintained to facilitate continued access by Iarnród Éireann/CIE to the existing railway line and the existing signalling building which will be retained on site adjacent to the proposed office building, all on a site (0.37 hectares) known as "Boston Sidings Site" at Grand Canal Quay and Macken Street, Dublin, (on lands bound by Clanwilliam Square to the south, Grand Canal Quay to the east, the Dublin - Rosslare mainline railway to the north and Macken Villas and Macken Street to the west).

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 provision of the Dublin City Development Plan 2016-2022, the Urban Development and Buildings Heights - Guidelines for Planning Authorities issued by the Department of Housing, Community and Local Government in December, 2018, and the location of the site within the Docklands Neighbourhood Strategic Development and Regeneration Area 6 (SDRA 6), it is considered that, subject to compliance with the conditions set out below, the proposed development would accord with national strategic planning policy and local planning policies and objectives for the area, would not seriously injure the visual or residential amenities of the area or adversely affect the development potential of adjoining lands, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. 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, 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. All arrangements for clearance and decontamination of the site and for construction of the development shall be managed in accordance with a Demolition and Waste Management Plan which shall be prepared, submitted and agreed with the planning authority prior to commencement of development. The plan shall be 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.

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

3. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, a comprehensive construction management plan which shall include full details of the following requirements.
 - (a) The location of the site and materials compounds, including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during construction.
 - (b) The timing and routing of construction traffic and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
 - (c) Details of mitigation measures for noise, dust and vibration, and for monitoring, including noise monitoring locations for the purposes of the construction phase of the proposed development. Noise levels shall accord with the standards set out in BS 5228: "Noise Control on Construction and Open Sites Part 1 Code of Practice for Basic Information and procedures for noise control" and, shall not result in grounds for complaint as provided for in BS 4142 "Method for rating industrial noise affecting mixed residential and industrial areas".
 - (d) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.

- (e) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (f) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.
- (g) Hours of work which shall be confined to between 0700 to 1900 hours Mondays to Fridays inclusive, excluding bank holidays and between 0800 to 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

Reason: In the interests of clarity, residential and public amenities, health, safety and sustainable development.

4. An architect with specialist expertise in historic building conservation shall be appointed to ensure the implementation monitoring and management of works in accordance with best conservation practices and with the Architectural Heritage Protection; Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011. The appointee shall provide for the satisfactory protection and retention of the historic fabric on the retaining wall and shall prepare and supervise the interventions to the construction and fabric of any sections of the retaining wall proposed for removal which shall be disassembled, numbered and catalogued suitable for reinstatement, and recorded and photographed in accordance with the requirements of the planning authority.

Reason: In the interest of clarity and the conservation interest of significant industrial heritage in accordance with good practice.

5. 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 the 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.

6. The developer shall provide for the following requirements at the Grand Canal Quay entrance:
 - (a) The public footpath shall be continued at a raised level across the entire width of the entrance and exit but ramped and dropped as necessary to facilitate the car entry/exit.
 - (b) Signage, road markings to provide for priority for pedestrians and cyclists over cars on entry and exit at the site and contrasting materials at the site entrance.

Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of public amenity and safety and clarity.

7. 199 cycle parking spaces shall be provided within the site. The layout and demarcation of these spaces and of the internal cycle access route shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To facilitate sustainable modes of transport.

8. Prior to the occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details which shall be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: To encourage the use of sustainable transport modes.

9. The landscaping plan and boundary treatment, and the external communal amenity space provision shown in the application, shall be fully implemented within the first planting season following completion of construction.

Reason: In the interests of the visual amenities of the area and orderly and sustainable development.

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water, which shall incorporate SUDS drainage methods and shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

11. The developer shall enter into water supply and/or waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

12. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

13. Communal waste storage areas shall be designed and managed in accordance with the proposals within an operational waste management plan. Waste materials shall be transferred to the designated surface level space on the day of collection only. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interests of residential and public amenities.

14. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

Reason: In the interest of visual amenity.

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

16. Proposals for a name and/or numbering scheme and associated signage for the proposed block shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of urban legibility.

17. Details of a public lighting scheme to include measures to prevent light spillage into adjoining residential properties, shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of public safety and visual amenity.

18. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, communal spaces, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, prior to occupation of the development.

Reason: In the interest of amenity and orderly development.

19. 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.

20. 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.

Paul Hyde

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

Dated this day of 2019.