



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 3752/19

Appeal by Fergal and Jai Bonner care of AK Planning and Development Limited of Mill Road, Corbally, Limerick and by Others against the decision made on the 13th day of March, 2020 by Dublin City Council to grant subject to conditions a permission to BCP Fund Management DAC acting in its capacity as manager of BCP Investment Fund in respect of its sub-fund BCP Real Estate Value Add Fund care of Avison Young of 4th Floor, 2-4 Merrion Row, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition of the existing basement slab (circa 1,107 square metres), supporting structures, one number staircase and car park ramp at podium and basement level and the construction of a six-storey over basement enterprise centre building. The proposed building has a total height of circa 23.37 metres above ground (including screened plant enclosure at roof level with lift over-run), stepping back at first through sixth floor levels and with a gross floor area of circa 4,459 square metres (including a basement of circa 1,129 square metres). The proposed enterprise centre building will accommodate shared workspace at ground to fifth floor levels, reception, café/collaboration zone, a roof terrace (with 1.8 metres tall glazed

privacy screening) to the north elevation at fifth floor level, photovoltaic panels and green roofs at fifth floor and roof levels, plant enclosure at roof level (including lift overrun), substation at ground floor, and a landscaped courtyard at ground floor level to the west and south of the proposed building. Vehicular access to the basement is from New Street via two number car lifts while bicycle access to the proposed basement is via a bike stair to the south of the site. The proposed development includes the removal of an existing balcony at podium level to provide a garden lightwell and the provision of 16 number car parking spaces at basement level, two number lift cores, three number stair cores, ancillary facilities (including bicycle storage (57 number spaces) and shower block), hard and soft landscaping and all other ancillary site development and works at a circa 0.152 hectare site at New Street, off New Street South, 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 site location within the Liberties and Newmarket Square Strategic Development and Regeneration Area within the Dublin City Development Plan, 2016-2022 according to Section 15.1.1.19 of which it is the policy of the planning authority to stimulate the economy, to include a critical mass of appropriate development and investment to provide significant employment opportunities and to ensure the character of areas in the Liberties is protected and enhanced by contemporary and high quality design in new buildings adjacent development; to the adjoining developments at Fumbally; to the nature of the proposed use as an enterprise centre; to the proposed building footprint and form in a series of setbacks from the western site boundary and, the proposed design for fenestration and screening, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of adjoining properties by reason of overbearing impact, overshadowing, overlooking or noise and nuisance, would not seriously injure the visual amenities of the area, would be acceptable in terms of traffic safety and convenience and 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 lodged with the planning authority on the 17th day of February, 2020 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. Site clearance and development works shall be carried out only during the construction phase between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 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.

3. For the construction phase of the proposed development, noise management measures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

For operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed: -

- (i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. [The T value shall be one hour.]
- (ii) An LAeqT value of 45 dB(A) at any other time. [The T value shall be 15 minutes]. The noise at such time shall not contain a tonal component.
- (iii) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1 and 2 "Description and Measurement of Environmental Noise" as applicable.

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

4. Prior to commencement of development, the applicant shall submit 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 appropriate 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 B.S. 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.

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

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 the 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. 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.

- 7. Prior to commencement of development, the developer shall enter into a water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

8. Proposals for a name 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 visual amenity and orderly development.

9. No advertisement or advertisement structure (other than those shown on the drawings submitted with the planning application) shall be erected or displayed on the building in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

10. 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 interests of visual and residential amenity.

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

12. Details to 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.

13. Communal waste storage areas shall be designed and managed in accordance with the proposals within an operational waste management plan lodged with the planning authority. Waste materials shall be transferred to the designated surface level space on the day of collection only.

Reason: In the interests of residential and public amenities.

14. 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.

15. 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.

16. 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.

17. 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 the Board 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 is applied to the permission.

Paul Hyde
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board

Dated this day of 2020