



Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Planning Register Reference Number: 4691/19

Appeal by Pauline Cadell and others care of 2 May Cottages, off Nelson Street, Dublin and by others against the decision made on the 19th day of June, 2020 by Dublin City Council to grant subject to conditions a permission to Durkan (Mountjoy Street) Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dun Laoghaire, County Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: The proposed development comprises a shared living scheme over three-five storeys. The development details include: (1) the demolition of the derelict and vacant dwelling at number 16 Mountjoy Street; and (2) the provision of 121 number shared living units ranging from 15-49 square metres. The shared living scheme includes (a) amenities and facilities at ground floor in the form of a lobby area, a gym, a laundry room, meeting rooms, a library, a cafe lounge, a community room and a communal kitchen catering to all units (17 number) at this level; (b) amenities and facilities at first floor comprising lounge areas, a sound booth, a community lounge and 2 no. communal kitchen catering for all units (30 no.) at this floor; (c) amenities and facilities at second floor comprising lounge areas, a sound booth, a community

lounge and two number communal kitchen catering for all units (30 number) at this floor; amenities and facilities at third floor comprising lounge areas, a sound booth, a community lounge and 2 no. communal kitchen catering for all units at this floor (28 no.); and (d) amenities and facilities at fourth floor comprising lounge area, a community lounge, a residential lounge and a communal kitchen catering for all units (16number) at this floor, fourth floor units all have balconies ranging in size from 3.15 to 9.70 square metres. In addition, communal open space of circa 354 square metres is proposed at ground floor level, one number roof terrace is proposed at third floor level and two number roof terraces at fourth floor level. The proposed development can be accessed via three number entrances at Mountjoy Street, St. Mary's Place North and Paradise Place. Bin store and a bike storage room for 121 number bicycle parking spaces are located at ground floor level. Permission is also sought for landscaping and all ancillary and associated site development works; all at this overall site of approx. 0.1572 hectares comprising number 16 Mountjoy Street and bounded by Mountjoy Street to the west, St. Mary's Place North to the south and Paradise Place to the east, Phibsborough, 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 provisions of:

- (a) the Dublin City Development Plan 2016-2022, including the zoning and policy objectives applicable to the site,
- (b) the National Planning Framework, particularly National Policy Objectives 3b, 11, 13, 33 and 35,
- (c) the “Urban Development and Building Heights Guidelines for Planning Authorities” issued by the Department of Housing, Planning and Local Government in December 2018,
- (d) the Sustainable Residential Developments in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (e) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018, and the update to these Guidelines published in December 2020,
- (f) the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht, October 2011,
- (g) the nature, scale and design of the proposed development and the existing character and pattern of development in the area,
- (h) the existing derelict nature of the site and its central location in an area with a wide range of social and transport infrastructure, and

- (i) the documentation on the appeal file, including all submissions and observations received,

it is considered that, subject to compliance with the conditions set out below, the proposed development would respect the existing character of the area. would provide an appropriate response to the need to redevelop the site, would not seriously detract from the character or setting of the neighbouring Protected Structures and buildings of architectural heritage, would not seriously injure the amenities of property in the vicinity, would provide an acceptable form of residential amenity for future occupants and would be acceptable in terms of servicing, traffic safety and convenience. 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 to the planning authority on the 14th day of May 2020 providing for 114 units, 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. The shared accommodation units hereby permitted shall be for single occupancy only and shall operate in accordance with the definition of Build-to-Rent developments as set out in the "Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities" issued by the Department of the Housing, Planning and Local Government in March 2018, and the update to these Guidelines published in December 2020.

Reason: In the interest of the proper planning and sustainable development of the area.

3. The following amendments shall be made to the façade treatment of the building:-
 - (a) the standing seam finish wherever it occurs shall be replaced with a flush finish, and
 - (b) the projecting elements on the glazed corners shall be recessed flush with the glazing and shall not project above the ridge line of the general roof.

Revised plans and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenity.

4. Prior to the commencement of development, the developer shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no



individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first 'shared living units' within the scheme.

Reason: In the interest of the proper planning and sustainable development of the area.

5. Prior to expiration of the 15-year period referred to in condition number 4 above, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a Shared Accommodation scheme. Any proposed amendment or deviation from the Shared Accommodation model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

6. Prior to commencement of development, the developer shall submit to, and agreed in writing with, the planning authority, details of the management company established to manage the operation of the development together with a detailed and comprehensive Shared Accommodation Management Plan which demonstrates clearly how the proposed Shared Accommodation scheme will operate.

Reason: In the interest of the proper planning and sustainable development of the area.

7. Proposals for a development name and numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and house numbers shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical

features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

8. All proposed bedroom units shall be provided with functional kitchens to include cooking hobs and sinks.

Reason: In the interest of providing a satisfactory standard of residential amenity for occupants of the development.

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

Reason: In the interest of visual amenity.

10. Details of all surface materials in public areas and tie-in details with the public road/footpath shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of orderly development and visual amenity.

11. All proposed communal and residents' support facilities areas shall be reserved for the use of the residents only and shall not be open to the public.

Reason: In the interest of providing a satisfactory standard of residential amenity for occupants of the development.

12. The glazing at ground floor level along St. Mary's Place North, Paradise Place and Mountjoy Street shall be kept free of all stickers, posters and advertisements and any roller shutter and its casing (if required) shall be recessed behind the glazing and shall be factory finished in a single colour to match the colour scheme of the building prior to their erection. The roller shutters shall be of the open lattice type and shall not be painted on site or left unpainted or used for any form of advertising.

Reason: In the interest of visual amenity.

13. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no advertisement signs (including those installed to be visible through the windows), structures, banners, canopies, flags or other projecting element shall be displayed or erected on the building or within its curtilage without the prior grant of planning permission.

Reason: In the interest of visual amenity.

14. The site shall be landscaped in accordance with the proposals submitted to the planning authority on the 14th day of May, 2020. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The landscaping scheme shall be implemented fully in the first planting season following completion of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.



15. Boundary treatments around the perimeter of the roof terrace areas shall be designed to prevent overlooking of adjoining properties. Proposals in this regard, including detailed drawings, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

16. The developer/operator shall implement the measures outlined in the Mobility Management Plan submitted to the planning authority. A mobility manager shall be appointed to oversee and co-ordinate the roll-out of the plan.

Reason: In the interest of sustainable transportation.

17. Water supply and drainage arrangements, including the attenuation and 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 and to ensure a satisfactory standard of development.

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

Reason: In the interest of public health and to ensure a satisfactory standard of development.

19. Prior to commencement of development, precise details and drawings of all rooftop structures, including solar panels, shall be submitted to, and agreed in writing with, the written agreement of the planning authority. Otherwise, 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 amenity of property in the vicinity and the visual amenity of the area.

20. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

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

21. Construction and demolition waste shall be managed in accordance with a construction and demolition waste management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the 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.

Reason: In the interest of sustainable waste management.

22. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide, inter alia,

details and location of the proposed construction compound(s), details of intended construction practice for the development, including noise and dust management measures, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.

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

23. Site development and building works shall be carried out only between the hours of 0700 to 1900 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 residential amenities of property in the vicinity.

24. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities 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, in particular recyclable materials, in the interest of protecting the environment.

25. 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.

26. 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.

27. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City project (St. Stephen's Green to Broombridge Line), 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.

 

Stephen Bohan

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

Dated this *28th* day of *April* 2021.

