



Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Planning Register Reference Number: 4329/19

Appeal by Tony Cafolla and Nina Cafolla care of Paul O'Callaghan Architects of Sherkin, Off Ballinclea Road, Killiney, County Dublin against the decision made on the 7th day of September, 2020 by Dublin City Council to grant subject to conditions a permission to Michael Kearns care of Wynne Gormley Gilsenan Architects and Surveyors Limited of 21 Church View, Cavan, County Cavan in accordance with plans and particulars lodged with the said Council.

Proposed Development:

(1) Change of use of the upper floors within number 8 O'Connell Street Lower from residential along with change of use of the existing commercial floorspace within number 3 Harbour Court to provide for a boutique hotel consisting of an overall total of 23 number en-suite bedrooms on first, second, third and fourth floor of number 8 O'Connell Street and to the ground, first, second and third floor of number 3 Harbour Court,

(2) associated internal reconfiguration works to provide for the boutique hotel to include provision of a reception area, wc, kitchen, bicycle/storage area at the ground floor of number 3 Harbour Court, associated signage to the exterior number 3 Harbour Court, change of finishes externally to existing link corridor between number 8 O'Connell Street Lower and number 3 Harbour

Court, upgrading of existing internal lift within number 8 O'Connell Street Lower and alterations to roof finishes and replacement of windows to number 3 Harbour Court, connection to existing site services and all associated and ancillary works and

(3) the development will also include for provision of one number one bed apartment at second floor level within number 8 O'Connell Street Lower, all at 8 O'Connell Street Lower (Protected Structure) and 3 Harbour Court, 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 Z5 zoning objective for the area, the provisions of the Dublin City Development Plan 2016-2022, the scale and nature of the proposed development partly within a protected structure at number 8 O'Connell Street Lower and its location relative to surrounding properties within the O'Connell Street Architectural Conservation Area and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the amenities of property in the vicinity, would not adversely affect the character or setting of the Protected Structure or of the Architectural Conservation Area in which it is located or any other protected structures in the vicinity and would be acceptable in terms of pedestrian and traffic safety. 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 11th day of August 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. The proposed development shall be amended as follows:
- (a) In advance of works commencing on site, the developer shall provide revised layouts, in a more sympathetic manner than currently proposed in all bedrooms of number 8 O'Connell Street Lower. Details of the above shall be agreed with the planning authority by written agreement in advance of works commencing.
 - (b) The developer shall submit revised designs which details reuse, insofar as possible, of the historic fabric of the central staircase in number 3 Harbour Court and to consider alterations to the extant staircase in a manner that would bring it, as far as practically possible, in compliance with the requirements of the Building Regulations.
 - (c) All historic windows in both number 8 O'Connell Street and Harbour Court shall be repaired to a level that restores their original appearance. Where windows are clearly shown to be beyond repair, all proposed replacements must be historically correct timber sash windows, which are accurately based on originals found elsewhere in the building or elsewhere on the street. Details of the proposed new window frames, details and glazing (at a scale of 1:2) shall be submitted to the planning authority in advance of works commencing on site. The developer shall employ a specialist joiner to complete the window refurbishment/replacement. Please note that in the case of historic windows, which retain historic glazing, new replacement windows will not be permitted. These shall be repaired.

- (d) The developer shall provide a conservation specification and methodology for the proposed cleaning and repointing works to number 3 Harbour Court and where proposed number 8 O'Connell Street Lower. This shall be to best conservation practice and shall be agreed with the planning authority for written agreement in advance of works commencing. In advance of any works commencing on site, the Conservation Officer shall be given the opportunity to inspect the façades of the building prior any cleaning or repointing works taking place, in order to identify any additional defects at close quarters, and to provide additional guidance in terms of the appropriate upgrade of the facades.

Reason: In the interest of protecting the integrity of historic fabric including a protected structure as well as the streetscape character in an Architectural Conservation Area and to protect visual amenity.

3. Other than for maintenance purposes, the roof top amenity space on the top of number 8 O'Connell Street Lower shall be solely used by the occupants of the self-contained residential apartment unit.

Reason: In the interest of residential amenity.

4. Details, including samples, of the materials, colours and textures of all the external finishes to the buildings and the façade of the link bridge shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The planning authority's conservation section shall be given an opportunity to inspect the site in the course of fabric removal and should any structural element of interest be found within the site these should be incorporated as part of the revised proposal.

Reason: To ensure an appropriate standard of development/conservation.

5. Prior to commencement of works, the developer shall make a record of the existing protected structure. 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 structure, and
 - (b) a detailed, labelled photographic survey of all internal rooms (including all important fixtures and fittings), the exterior and the curtilage of the building.

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 structure shall be submitted to the Irish Architectural Archive.

Reason: In order to establish a record of this protected structure.

6. (a) A qualified professional with specialised conservation expertise shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.
- (b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the planning application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic reinstatement.
- (c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.

Reason: To secure the authentic preservation of the protected structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

7. (a) Details of all proposed signage which shall include samples, of the materials, colours and textures of all the external signage to the proposed development including the signage/plaque to the front elevation of number 8 O'Connell Street shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) No other signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, other than that approved on the submitted plans shall be erected within the site unless authorised by a further grant of planning permission.

Reason: In the interests of visual amenity and streetscape.

8. Water supply and drainage arrangements, including the disposal of surface water from the site, shall be in accordance with the detailed requirements of the planning authority.

Reason: In the interest of public health.

9. The proposed development shall be implemented in such a manner as to ensure no adverse impact on Luas operation and safety and shall comply with Transport Infrastructure Ireland's Code of Engineering Practice for works on, near or adjacent to the Luas Light Rail System. Prior to the commencement of development, the developer shall consult with Transport Infrastructure Ireland and submit to the planning authority details showing compliance with these requirements for written agreement including the following:

- (a) The developer shall obtain a permit from the Luas operator under the Light Railway (Regulation of Works) Bye Laws 2004 (SI No 101 of 2004) which regulates works occurring close to LRT infrastructure.
- (b) A programme for settlement and vibration monitoring programme during construction works.
- (c) Demolition and construction method statement, identifying all interfaces to the Luas alignment and risk assessment for work associated with the interfaces including mitigation measures.
- (d) A Construction Management Plan and a Construction Traffic Management Plan.
- (e) Lighting and public realm scheme in the context of the Luas light rail system.

Reason: In the interest of traffic safety and to ensure no adverse impact on Luas operation and safety.

10. No fans, louvres, ducts or other external plant other than those shown on the drawings hereby permitted shall be installed unless authorised by a prior grant of planning permission.

Reason: In the interest of visual amenity.

11. No additional development, other than that shown on the drawings hereby permitted shall take place above roof parapet level including 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.

12. 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.

13. 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.

14. 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:
- (a) location of the site and materials compound(s) including areas identified for the storage of construction refuse,
 - (b) location of areas for construction site offices and staff facilities,
 - (c) details of site security fencing and hoardings,
 - (d) details of car parking facilities for site workers during the course of construction,
 - (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,
 - (f) measures to obviate queuing of construction traffic on the adjoining road network,
 - (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
 - (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
 - (i) provision of parking/vehicular access for existing properties during the construction period,

- (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (k) 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,
- (l) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil, and
- (m) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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 amenities, public health and safety.

15. 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 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

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 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 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.

Paul Hyde

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

Dated this day of 2021.