



Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Planning Register Reference Number: 2409/20

Appeal by An Taisce of The Tailors' Hall, Back Lane, Dublin and by others against the decision made on the 14th day of October, 2020 by Dublin City Council to grant subject to conditions a permission to Cloudwell Limited care of McGill Planning Limited of 45 Herbert Lane, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: The demolition of circa 1,028 square metres of all existing structures on site. The construction of a seven to eight storey over single basement building which will comprise a 106-number bedroom hotel, seating areas, ancillary restaurant, public bar, reception, ancillary hotel area/offices, associated staff areas, changing/shower rooms, toilets, stores, bin and bicycle stores, ESB substation and circulation throughout and plant at basement and roof level. There will be pedestrian access from Usher's Street and Usher's Quay. The total gross area of the building (including basement) is circa 4,046.10 square metres. All associated site development works and services provision required to enable the development of the site. All on a site of circa 0.055 hectares at Numbers 1, 1A and 2 Usher's Street and Numbers

29/30 Usher's Quay, Dublin. The site is on the corner of Usher's Quay and Usher's 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 the Dublin City Development Plan, 2016 - 2022 according to which the site is located within an area subject to zoning objective Z5: “consolidate and facilitate the development of the central area and to identify reinforce, strengthen, and protect its civic design character and dignity”, the primary purpose of which, according to section 14.8.5 is to sustain life within the centre of the city through intensive mixed use development and to Policy Objectives CEE 12 and CEE 13 which provide for the promotion and facilitation of tourism and support for additional tourism at accommodation at appropriate locations, and having regard to the planning history for the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities or historic architectural character of the Liffey Quays, would not seriously injure the amenities of residential properties in the vicinity, would not be prejudicial to public health or public safety by reason of traffic hazard 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 submitted on the 17th day of September, 2020, and by the further plans and particulars received by An Bord Pleanála on the 10th day of December, 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 developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard: -
 - (a) the developer shall 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) the developer shall employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works;

- (c) the archaeologist shall provide a detailed impact statement based on the final development plans for consideration by the planning authority;
- (d) the planning authority, in consultation with The National Monuments Service, shall determine the exact nature and extent of any archaeological excavation. The uppermost overburden may be removed from the site by a machine with toothless bucket only under archaeological supervision. All in situ features, including post medieval, must be fully recorded prior to removal;
- (e) once archaeological layers have been exposed, the ground shall be reduced as an archaeological exercise using archaeological hand excavation techniques. In the event of in situ articulated human remains or other significant archaeological deposits being located during the course of this work, the archaeologist retained by the developer shall immediately notify the planning authority and The National Monuments Service. Should such archaeological features be of great significance their preservation in situ shall be required;
- (f) the ground shall be reduced to the base of the archaeological deposits;
- (g) a finds-retrieval strategy shall be developed by the licensed archaeologist and submitted for agreement with The National Monuments Service and the planning authority; and

- (h) a written report containing the results of the archaeological excavation and post-excavation shall be submitted on completion to the planning authority and to The National Monuments Service.

In default of agreement on any of these requirements, the matter shall be referred to the 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.

- 3. The construction of the development shall be managed in accordance with a Demolition and 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:
 - (i) Location of the site and materials compound.
 - (ii) Location of areas for construction site offices and staff facilities.
 - (iii) Details of site security fencing and hoardings.
 - (iv) Details of timing and routing of construction traffic to and from the construction site and associated directional signage.
 - (v) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

- (vi) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (vii) containment of all construction-related fuel and oil.
- (viii) arrangements for storage and removal of construction and demolition waste and measures for management of surface water run-off.
- (ix) arrangements to ensure that during the construction and demolition phases works are in accordance the standards, as set out in British Standard 5228 'Noise Control on Construction and Open Sites, Part 1. Code of practice for basic information and procedures for noise control.'
- (x) a monitoring system and record of daily checks that the works are being undertaken in accordance with the Construction Management Plan which shall be kept for inspection by the planning authority.

Reason: In the interests of amenities, public health and safety.

4. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between the hours of 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 residential amenities of property in the vicinity.

5. The hotel bedrooms and associated facilities and amenities shall be occupied solely in connection with the hotel use. They shall not be occupied for any other purposes within Part 2, or Schedule 2, Part 4 of the Planning and Development Regulations, 2001, as amended, without a prior grant of planning permission.

Reason: In the interest of clarity.

6. Prior to commencement of development, a fully detailed Servicing and Operational Waste Management Plan shall be submitted to, and agreed in writing with, the planning authority. The plan shall include details for the management of waste, including the provision of facilities for the storage, separation and collection of the waste, including recyclable materials, and for the ongoing operation of these facilities and 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 and shall be monitored and reviewed by the operator of the development.

Reason: In the interest of sustainable waste management.

7. Prior to commencement of development, detailed layout, design and specifications, including marking, signage and layout of the proposed site access, loading bay, arrangements for storage or waste and cycle parking for a minimum of ten cycle spaces and pedestrian facilities shall be submitted to, and agreed in writing with, the planning authority. These works shall be fully implemented prior to occupation of the development.

Reason: In the interests of pedestrian and vehicular safety and convenience.

8. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be displayed on site for inspection by the planning authority.

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

9. Water supply and drainage arrangements, including the disposal of surface water incorporating Sustainable Drainage Systems shall comply with the requirements of the planning authority for such works and services.

Reason: In the interests of public health and to ensure a proper standard of development.

10. 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.

11. All service cables associated with the proposed development shall be located underground within the site.

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

12. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 (as amended), no additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant or the erection of telecommunication aerials, antennas or equipment other than those already shown on the drawings submitted with the application, unless authorised by a prior grant of planning permission. Furthermore, the precise details of the proposed signage, size, materials, method of illumination, if any proposed, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any additional signage shall be the subject of a separate planning application.

Reason: In the interests of visual and residential amenities.

13. 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.

14. 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 2021.