

Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Planning Register Reference Number: 2654/20

Appeal by Gráinne Noone on behalf of the Board of Management of Presentation Primary School, Warrenmount, Blackpitts, Dublin and by John Fisher of 35 The Warehouse, Clanbrassil Terrace, Dublin against the decision made on the 8th day of January, 2021 by Dublin City Council to grant subject to conditions a permission to Independent Clothing Holdings Limited care of JFOC Architects of 3 and 4 Greenmount House, Harold's Cross, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition of the existing two-storey warehouse type structure that is currently in permitted use as a religious, cultural and community building and construction of a mixed-use development in a building ranging from three to seven storeys over basement level. Mosque located at ground floor and mezzanine level. 27 number residential apartment units with balconies located on first to sixth floor consisting of six number one bed units, 20 number two bed units; one number three bed unit. The development will include cycle parking, plant rooms and storage areas for apartment and mosque at basement level, bin store at ground floor level and all associated development works, signage, landscaping, boundary treatments and services at 25 to 26 Blackpitts, 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.

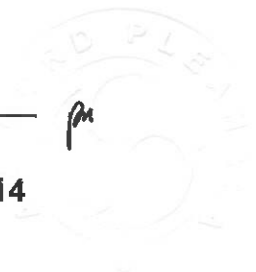
Reasons and Considerations

In coming to its decision, the Board had regard to the following-

- the National Planning Framework and, in particular, National Policy Objectives 11, 13 and 35 set out in that document,
- the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage in 2020,
- the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government, and in particular Specific Planning Policy Requirement 3(A) of that document,

- the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) issued by the Department of Environment, Heritage and Local Government in 2009,
- the provisions of the Dublin City Development Plan 2016-2022,
- the submissions and observations on file,
- the decision of the planning authority, and
- the report of the Inspector,

and considered that, having regard to permitted development on the site, the nature of development in the area, the Inner City location of the site, the close proximity of the site to existing public transport links, and subject to compliance with the conditions set out below, the proposed development, would represent an acceptable height, density and design for the site, would be acceptable in terms of the amenities of adjoining properties, would not seriously injure the visual amenities of the area, and would be acceptable in terms of pedestrian, cyclist and traffic safety. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.



Conditions

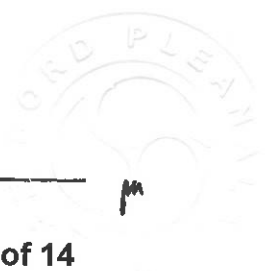
1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 27th day of November 2020, except as may otherwise be required in order to comply 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) All walls to communal and private terraces shall have a minimum height of 1.8 metres.
 - (b) A 1.8 metres high obscure screen, or as otherwise agreed in writing with the planning authority, shall be provided to the side and between all private amenity space balconies.
 - (c) The office and storage rooms in apartments numbers 12 and 18 shall not be used as habitable rooms, for example, bedrooms, except with the granting of a subsequent permission for such usage.
 - (d) A minimum of 73 bicycle parking spaces shall be provided within the application site boundary and as follows-

- (i) 38 for the apartments (one per bedroom),
 - (ii) 10 visitor spaces, and
 - (iii) 25 spaces exclusively for users of the Mosque.
- (e) Electric charging facilities shall be provided for at least 10% of the cycle parking spaces.
- (f) A vehicle set down area shall be provided to the front of the proposed development to facilitate vehicles for servicing, deliveries, emergency and waste collections unless otherwise agreed in writing with the planning authority. The set down area shall not facilitate private car parking at any time.
- (g) Measures to restrict car parking to the front of the site (save for the set down area in (f)) shall be submitted to the planning authority for written agreement.
- (h) The fire exit door on the rear elevation opening onto Saint Michael's Terrace as shown in drawing number 14.170.FI.2003 submitted to the planning authority on the 27th day of November, 2020 is not permitted by this Order. This does not prejudice the exempted development provisions of class 41(e) of Schedule 2, Part 1 of the Planning and Development Regulations 2001-21 (as amended).

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



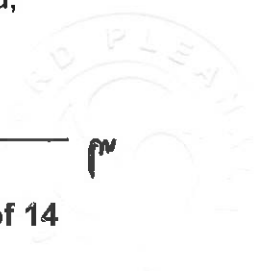
Reason: In the interest of residential amenity and clarity and to future proof the development for the use of electric cycles.

3. 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, foundation layout and preservation in situ, 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.

4. 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.

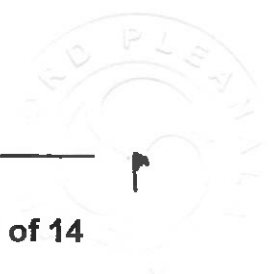
Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.

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

Reason: In the interest of visual amenity.

6. A Building Lifecycle Report in accordance with section 6.13 of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2020 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of orderly development.



7. The construction of the development shall be managed in accordance with a Construction Management Plan, the content of 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 area(s) 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 on-site 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) Details of appropriate mitigation measures for noise, dust, vibration and structural stability of adjoining property and monitoring of same. Noise mitigation measures shall include-
 - (i) Identification and agreement of noise sensitive locations including schools,
 - (ii) advanced notice of significant noise generating activities to noise sensitive locations,
 - (iii) timing of significant noise generating activities outside of school hours where possible, and
 - (iv) details of a dedicated noise liaison person who shall be responsible for all necessary consultations with identified noise sensitive locations.
- (j) 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;
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) 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 interest of amenities, public health and safety.

8. Site development and building works shall be carried out only between the hours of 0800 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 amenities of property in the vicinity.

9. Drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to commencement of development

Reason: In the interest of public health.

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.

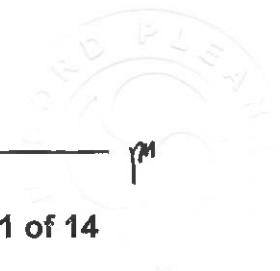
11. Proposals for an estate name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs and apartment numbers, shall be provided in accordance with the agreed scheme. 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.

12. The management and maintenance of the proposed apartment 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, all internal common areas open spaces, landscaping, paths, vehicle set down areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the development is made available for occupation and operation.

Reason: To provide for the future maintenance of this private development in the interest of residential amenity and orderly development.

13. Prior to the opening 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, users and residents of the development and to reduce the extent of parking associated with the development in the area. The strategy should provide measures, where possible, to discourage the use of the private car by visitors to and from the site at peak school hours. The strategy shall be prepared and implemented in perpetuity by the management company for the development. Furthermore, the Strategy shall be subject to review/alteration and/or amendment(s) in 12 months by the planning authority.



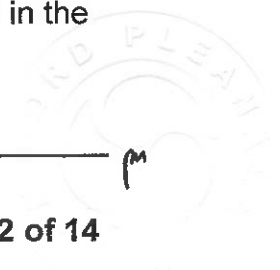
Reason: In the interest of encouraging the use of sustainable modes of transport.

14. 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 for each apartment and the Mosque 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.

15. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

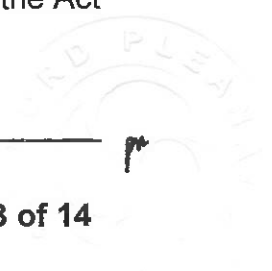


16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, public open space and other services required 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.

17. 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



18. 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 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 4th day of OCTOBER 2021.