

Planning and Development Acts 2000 to 2020

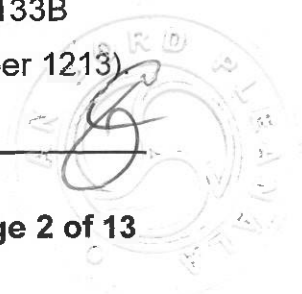
Planning Authority: Dublin City Council

Planning Register Reference Number: 3274/20

Appeal by Mannix Flynn of Pembroke South Dock, Dublin and by Perry Ogden of 133 to 136 Capel Street, Dublin against the decision made on the 26th day of January, 2021 by Dublin City Council to grant subject to conditions a permission to Cathedral Leisure Limited care of Thornton O'Connor Town Planning of 1 Kilmacud Road Upper, Dundrum, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: The development will consist of: The removal of part of existing floorspace (1,512 square metres) which principally includes the removal of non-original fabric to Protected Structures of no architectural significance (including fabric such as flat roofed extensions, stud partitions, blockwork services enclosures, infill floor and ceiling sections, stair enclosures, atrium, block fabric to original openings, later windows, doors, services, fittings and concrete floors); upper gable fabric of Number 133b Capel Street in addition to the limited removal of original fabric to facilitate permeability, improved functioning and connectivity (including the provision of openings in existing masonry); change of use of building fabric to be retained (2,805 square metres) from current commercial uses (offices, storage and

workshop), ancillary car parking and residential use to use as a hotel; and the provision of an additional 2,694 square metres to facilitate a development with a gross floor area of 5,499 square metres (a total 1,182 square metres larger than existing premises which has a gross floor area of 4,317 square metres). The proposed development will range in height from part one to part eight storeys and the hotel will comprise 98 number bedrooms in addition to ancillary facilities including bar, restaurant and function areas. The development includes modifications to non-original shopfronts, replacement of floor slabs throughout (principally relating to archaeological and architectural investigations which will be subject to separate license); reconfiguration of internal spaces and conservation works to existing structures including roof repair to early buildings, masonry repointing, removal of cementitious render and replacement with lime-based render, masonry consolidation, repair/replacement of rainwater goods, repair/replacement of non-original window joinery, creation of new openings through existing masonry, replacement and re-routing of services, structural interventions, fire safety interventions, reconstruction of upper gable fabric of Number 133b Capel Street in brick; general architectural modifications and internal and external works for the repair, maintenance and upgrading of the buildings. The development includes bicycle parking spaces; hard and soft landscaping including courtyards and inaccessible upper level outdoor planted spaces; the provision of upper level private terraces facing east; signage; lighting; plant; service and refuse areas; and all associated works above and below ground. The proposed development can be accessed via Number 133 Capel Street, Number 7 Meeting House Lane and Number 23 Little Mary Street, all on a 0.212-hectare site at Numbers 133 and 133A Capel Street, Numbers 136A and 136B Capel Street, Numbers 7 and 7A Meetinghouse Lane and Number 23 Little Mary Street, Dublin (all Protected Structures with the exception of Number 7A Meetinghouse Lane, (RPS Numbers 1213, 5064, 8772). Part of the site is also known as the Former Boland's Bakery (including structures to the rear opening onto Meeting House Lane) referred to as Number 133B Capel Street in the Record of Protected Structures (also RPS Number 1213).



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 the Dublin City Development Plan 2016 - 2022, to the location of the site and the pattern of existing and permitted development in the area, and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity 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 particulars submitted on the 21st 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. Details of the materials, colours and textures of all the external finishes to the proposed development, including details of external landscaping arrangements at individual floor levels, 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.

3. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.



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

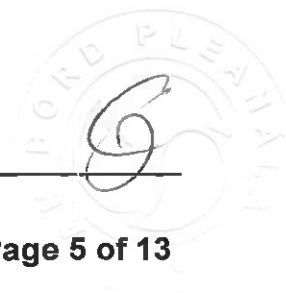
Reason: In the interest of public health.

5. No additional development shall take place above roof level including the incorporation of additional plant and equipment such as lift motors, air handling equipment, storage tanks or any other external plant other than those shown on the drawings which are the subject of the current approval or unless authorised by a prior grant of planning permission.

Reason: In the interest of visual amenities of the area.

6. 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.



7. 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. The developer shall liaise with Transport Infrastructure Ireland in this regard, prior to the submission of this statement. This plan shall provide details of intended construction practice for the development, noise management measures and location of site compounds.

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

8. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0700 and 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. Prior to the commencement of development, and following liaison with both Transport Infrastructure Ireland and the tram operator, the developer shall submit to, and agree in writing with, the planning authority, a Construction Traffic Management Plan which shall identify mitigation measures to protect operational Luas Infrastructure and reduce the impact of construction traffic on adjoining businesses.

Reason: In order to safeguard public transport infrastructure and to ensure a satisfactory standard of development.

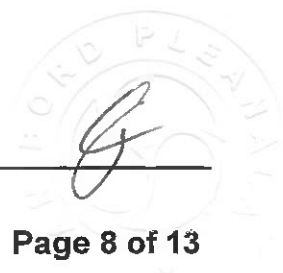
10. Prior to the commencement of development and following liaison with both Transport Infrastructure Ireland and the tram operator, the developer shall submit to, and agree in writing with the planning authority, full plans and details of all servicing access arrangements for the development.

Reason: In order to safeguard public transport infrastructure and to ensure a satisfactory standard of development.

11. (a) Full details of all external signage for the hotel and the bar/restaurant shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The external signage for the hotel shall be for information purposes only and shall consist of individual lettering of an appropriate scale.
- (b) No advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and to restrict the extent of advertising signage in the area.

12. (a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeq.T.
- (b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedance criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.
- (c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either –
- (i) during a temporary shutdown of the specific noise source, or
 - (ii) during a period immediately before or after the specific noise source operates.
- (d) When measuring the specific noise, the time (T) shall be any five-minute period during which the sound emission from the premises is at its maximum level.
- (e) Any measuring instrument shall be precision grade.



Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. An acoustical analysis shall be included with this submission to the planning authority.

Reason: In order to protect the amenities of property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours.

13. (a) A conservation expert 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 application and in 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 re-instatement.

- (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 ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

14. 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 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.

15. Prior to the commencement of development details of a suitable ventilation system shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of public health.

16. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. 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.

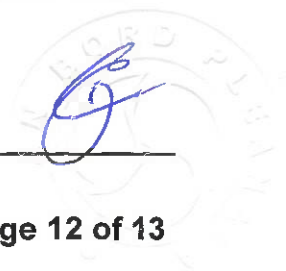


17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of streets, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the planning 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 determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

18. 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.

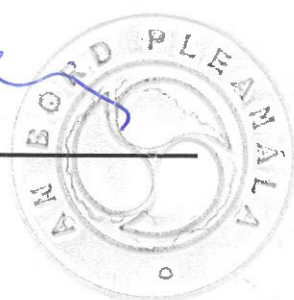


19. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution 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.



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



Dated this *17th* day of *JUNE* 2021.