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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3973/20**

**APPEAL** by Bartra Property (Kilmainham) Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dun Laoghaire, County Dublin against the decision made on the 19<sup>th</sup> day of February, 2021 by Dublin City Council to refuse permission for the proposed development.

**Proposed Development:** The development will consist of the following:

- demolition of all existing commercial buildings on site including former car showroom, garage, warehouse and offices (circa 1,095 square metres floor area);
- construction of a mixed-use development arranged in two blocks across six-eight storeys comprising the following: one number ground floor commercial unit fronting Old Kilmainham (circa 170 square metres floor area) and 74 number apartments consisting of 35 number one bed units, 38 number two bed units and one number three bed units ranging in size from circa 46 square metres to circa 102 square metres floor area each;
- north, south, east and west facing private terraces and balconies throughout;
- ancillary and plant areas at ground floor level including bin and bicycle storage, switch rooms, generator, water tank storage and ESB substation;
- circulation areas throughout and stair/lift cores in Blocks A and B;
- associated plant and photovoltaic panels at roof level.
- the total floor area of the proposal is circa 6,235 square metres;
- removal of the existing bridge and replacement with a new footbridge over the River Camac;
- a new public access route serving

pedestrians and cyclists connecting Old Kilmainham Road to the south with Rowerstown Lane to the north via the new bridge; • vehicular access serving delivery, service and emergency vehicles from Old Kilmainham Road; • improvements and widening of the public footpath along Old Kilmainham Road and • all associated site development works, service provision, drainage works, diversion of the existing combined sewer, public and communal open space and landscaping and boundary treatment works at a site of circa 0.212 hectare at 40 Old Kilmainham Road, Dublin. The site is bounded to the south by Old Kilmainham Road, to the east by 39 Old Kilmainham Road, to the west by 41 Old Kilmainham Road and rear/side properties of 2, 3 and 4 Lady's Lane and 3 and 5 Millbrook Terrace and to the north by Rowerstown Lane.

## **Decision**

**REFUSE permission for the above proposed development in accordance with the reasons and considerations 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

1. Having regard to the location of the site in Flood Zone B, which is undefended and an area that has history of flood incidences, the Board is not satisfied, on the basis of the information lodged with the planning application and the appeal, that the proposed development appropriately mitigates the risk of flooding on the site and the development would not give rise to a heightened risk of flooding either on the proposed development site itself, or on other lands. It is considered that a development of this scale on this site is premature pending the outcome of the Camac River Flood Alleviation Scheme.
2. The relevant standards for assessment of quality and layout of apartment developments is set down under the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2020. Under Section 3.8 of the guidelines, it stated that to safeguard higher standards “the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%”. The proposal fails to adhere to this standard with the proposed development contrary to the recommendation of the guidelines and providing for a development of insufficient quality in terms of safeguarding higher standards. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.



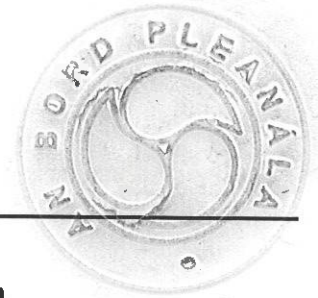
3. Having regard to the excessive, scale and proximity of development to existing residential properties, in particular Block B, it is considered that the proposed development would have an overbearing impact, would result in a reduced level of privacy and would seriously injure existing residential amenity. The proximity, scale and orientation of Block B relative to the adjoining site to the east could impact on the future development potential of the adjoining site and its development to a similar degree. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
  
4. Having regard to the scale, bulk and unsympathetic design of the proposed development, it is considered that the proposed development would have disproportionate and visually obtrusive impact in the surrounding area. The proposed development would be detrimental to the visual amenities and character of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.



**Michelle Fagan**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**



Dated this 16<sup>th</sup> day of December 2021.