

Planning and Development Acts 2000 to 2021

Planning Authority: Dublin City Council

Planning Register Reference Number: 4009/20

Appeal by Pertan Construction Services Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin against the decision made on the 24th day of February, 2021 by Dublin City Council to refuse permission for the proposed development.

Proposed Development: Development comprising: (i) the demolition of the existing two/ three-storey buildings at 72/74 Old Kilmainham Road; (ii) the construction of a seven-storey, over-basement, mixed-use development consisting of a 'build-to-rent' shared accommodation residential development consisting of: (a) 62 number shared accommodation units, comprising five number double occupancy units and 57 number single occupancy units (access from Brookfield Road) and served by Resident's Communal amenity areas comprising of external 202 square metres; Resident's internal amenity areas comprising of 259.7 square metres (between first and sixth floors); 216.7 square metres shared amenity area (at ground level) and 156.8 square metres cinema/ games room and gym (at basement level); (b) 33.2 square metres commercial space at Ground Floor (access from Old Kilmainham Road). The development features 144 number bicycle spaces (located at

ground and basement level); a refuse storage, laundry room and plant room (all located at basement level); landscaping and all associated site development works at 72-74, Old Kilmainham Road, Dublin.

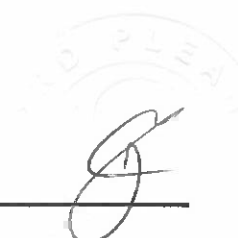
Decision

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.

Reasons and Considerations

Having regard to the following:

- (a) the policies and objectives set out in the Dublin City Development Plan 2016- 2022,
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016,
- (c) the Urban Development and Building Heights, Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018,
- (d) the Design Manual for Urban Roads and Streets (DMURS), issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in May 2019,
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, issued by the Department of Environment, Heritage and Local Government in May 2009,



- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018 and Sustainable Urban Housing, Design Standards for New Apartments, (Updated) Guidelines for Planning Authorities (2020),
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in November 2009,
- (h) Architectural Heritage Protection – Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011,
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a wide range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area, and
- (l) the planning history within the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this city centre location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development 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, and as amended by the further plans and particulars received by the An Bord Pleanála on the 23rd day of March, 2021, 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 shared accommodation units hereby permitted shall operate in accordance with the definition of Build to Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March 2018.

Reason: In the interests of the proper planning and sustainable development of the area.

3. Prior to the commencement of development, the developer shall submit details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first 'shared living units' within the scheme.

Reason: In the interests of proper planning and sustainable development of the area.

4. Prior to expiration of the 15 year period referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a shared accommodation scheme. Any proposed amendment or deviation from the shared accommodation model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

5. Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the management company, established to manage the operation of the development together with a detailed and comprehensive Shared Accommodation Management Plan which demonstrates clearly how the proposed shared accommodation scheme will operate.

Reason: In the interests of orderly development and the proper planning and sustainable development of the area, and in the interest of residential amenity.

6. Details of the materials, colours and textures of all the external finishes to the proposed buildings and detailed public realm finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.



7. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause a nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

8. No additional development shall take place above roof parapet level of the shared accommodation buildings, 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 amenities of property in the vicinity and the visual amenities of the area, and to allow the planning authority to assess the impact of any such development through the planning process.

9. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

10. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management

11. 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 shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

12. 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.

13. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

A handwritten signature in black ink is written over a circular official stamp. The stamp contains the text 'AN BORD PLEANÁLA' around the perimeter. The signature is a stylized, cursive 'G'.

14. 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.

15. 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 a demolition management plan, together with details of intended construction practice for the development, including a detailed traffic management plan, hours of working, noise management measures and off-site disposal of construction and demolition waste.

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



16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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.

17. 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.

18. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

19. Electric charging facilities shall be provided for cycle parking and proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.

Reason: In the interest of orderly development and to provide for and future proof the development as would facilitate the use of electric cycles.



20. 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.



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

Dated this 28th day of JUNE 2022

