

An
Bord
Pleanála

Board Order
ABP-310811-21

Planning and Development Acts 2000 to 2021

Planning Authority: Dublin City Council

Planning Register Reference Number: 2623/21

Appeal by Shelford Limited care of Professor Cathal O'Neill and Company Architects of 33 Pembroke Road, Dublin against the decision made on the 14th day of June, 2021 by Dublin City Council to refuse permission for the proposed development.

Proposed Development: Demolition of two-storey industrial unit and construction of 13 units (two number studio, 10 number one-bed, one number two-bed), five storey including set back penthouse, apartment building (circa 888 square metres) with fourth floor terraces facing Charles Lane and terraces/balconies to all levels to rear and incorporating the existing right-of-way vehicular access to number 25/26 Mountjoy Square (in separate curtilages), waste store, bicycle parking and underground rainwater attenuation tank in back garden at 25-26 Charles Lane, 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

Having regard to the policies and objectives of the Dublin City Development Plan 2016-2022, the Z1 zoning objective for the site, the policies and provisions of the National Planning Framework 2018, the Sustainable Urban Housing Standards for New Apartments - Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in March 2018, the Urban Development and Building Heights - Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2018 and the planning history of the site, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual amenities of the area or the adjoining Architectural Conservation Area, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. 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, 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. Prior to commencement of development, the developer shall provide for the following:
 - (a) A Grade 1 or Grade 2 Conservation Architect and/or an accredited Conservation Engineer with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works to the building 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. The developer shall submit to the planning authority, the contact details of the Conservation Architect and/or Conservation Engineer who will be working on the proposed development.
 - (b) The developer shall submit to, and agree in writing, the following information with the planning authority:

- (i) The historic stone boundary walls that flank the site and the historic south facing boundary wall shall be retained. These walls shall be retained, protected, consolidated and repaired as part of a holistic conservation-led strategy to protect the remaining special architectural and historic character of the site. The height of the south facing wall to be retained shall be agreed in writing subject to the submission of a conservation-led rationale.
- (ii) The developer shall submit a conservation led structural methodology for the protection of these historic walls, prior to and through all stages of construction, to be completed by the Conservation Architect and/or Conservation Engineer. The developer shall ensure that there will be no damage incurred to the historic walls.
- (iii) In order to ensure that the integrity of the historic walls are maintained and that the proposed repair works are carried out in accordance with best conservation practice with no unauthorised or unnecessary damage or loss of historic building fabric, in advance of works commencing on site, the developer shall prepare and submit to the Conservation Officer of the planning authority a record drawing cross-referenced where required to marked-up rectified photographs of all historic masonry elements to record the condition of the brickwork and stone work and any repairs required, following a detailed inspection by the Conservation Architect and/or Conservation Engineer, and the Conservation Officer.

- (iv) The developer shall submit to the Conservation Officer a careful salvage strategy for the remaining historic walls of the interior.
- (v) The wall shall be inspected by the Conservation Architect and/or Conservation Engineer and the Conservation Officer, and detailed drawings of the historic stone and brick coursing, all joints in the stonework, sizes of stone as well as mortar colour shall be provided and all required repairs identified for the written approval of the Conservation Officer.
- (vi) A comprehensive and detailed schedule of any repair and reinstatement works to the historic walls shall be fully detailed.
- (vii) A method statement for the raking out and re-pointing of the stonework and brickwork and all associated repair details shall be provided.
- (viii) Full details of any proposed new element, such as toothing-in and repair work that shall be required. All new elements shall match the historic wall.
- (ix) The developer shall identify by inspection of the façade for any remnants of original pointing to inform the appropriate re-pointing method for the building based on remnants observed. The Conservation Officer shall be given the opportunity to inspect the masonry façade when any additional defects can be identified at close quarters.

- (x) Samples of the materials and site exemplars for the raking out, cleaning, patch repairs, re-facing and repointing for the walls shall be provided for inspection by and written approval of the Conservation Officer in advance of the works commencing.
 - (xi) The developer shall submit a specification and methodology to best conservation practice for the proposed cleaning work as well as samples of same.
 - (xii) The developer shall submit details of five recent examples of specialist historic stone and brick repair work including re-pointing works carried out by the proposed contractor on protected structures of similar architectural significance in Dublin and associated references to ensure that the contractor has the requisite expertise for these works.
- (c) All works to the protected structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities and Advice Series issued by the Department of the Environment, Heritage and Local Government in October, 2011. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
- (d) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.
- (e) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.

- (f) The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structure and the historic area.

Reason: To ensure that the integrity of this protected structure is maintained and that the proposed repair works are carried out in accordance with best conservation practice with no unauthorised or unnecessary damage or loss of historic building fabric.

3. 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.

Reason: In the interest of visual amenity.

4. 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 details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

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

5. 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.

6. Site development and building works shall be carried out only between the hours of 0700 to 1900 hours Mondays to Fridays inclusive, between 0800 hours and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviations from these times will only be permitted 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.

7. 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.

8. Water supply and 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.

9. (a) 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 unit 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.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

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

10. 20 number bicycle parking spaces shall be provided within the site. Details of the layout and marking demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

11. Prior to first occupation, a pedestrian footpath shall be completed along the western side of Charles Lane extending from the eastern footpath at Charles Street Great and across the front of the development at numbers 25-26 Charles Lane. The footpath shall be dished accordingly and shall be provided in accordance with the requirements of the planning authority. All works in respect of the footpath shall be at the expense of the developer.

Reason: In the interest of pedestrian safety.

12. Details of the materials proposed in any public area to the front of the site shall be in accordance with the requirements of the planning authority, and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

13. Prior to the occupation of the proposed development, a residential travel plan shall be prepared. The plan shall address mobility requirements of future residents and shall promote the use of public transport, cycling and walking and the use of car club spaces. A mobility manager for the overall scheme shall be appointed to oversee and co-ordinate the role out of the residential traffic plan.

Reason: In the interest of sustainable transport.

14. 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. 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.

15. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded and landscaped in accordance with a landscaping scheme which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This scheme shall be completed before any of the units are made available for occupation.

Reason: In order to ensure a satisfactory development of public open space area and their continued use for this purpose.

16. The naming and numbering of the scheme shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the units.

Reason: In the interest of orderly street numbering.

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 (St. Stephen's Green to Broombridge Line) 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 made prior to the 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 an agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

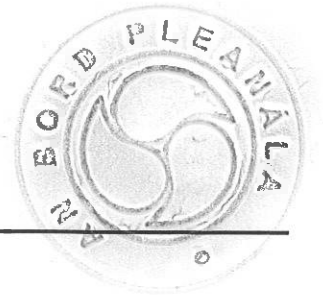
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme be made under Section 49 of the Act be applied to the permission.

19. 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 and maintenance until taken in charge by the local authority 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 or maintenance 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 and maintenance of the development until taken in charge.



Michelle Fagan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.



Dated this 19th day of January 2022.