

Planning and Development Acts 2000 to 2021

Planning Authority: Dublin City Council

Planning Register Reference Number: 2320/21

Appeal by Yvonne Carey of 15 Saint Patrick's Avenue, North Strand, Dublin and by Fiona Beirne and others care of Marston Planning Consultancy of 23 Grange Park, Foxrock, Dublin against the decision made on the 7th day of September, 2021 by Dublin City Council to grant subject to conditions a permission to Gerard Kelly Holdings Limited care of Doyle Kent Planning Partnership Limited of 71 Carysfort Avenue, Blackrock, County Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of the demolition of all existing buildings (circa 1,086 square metres) including three former residential units with ground floor commercial at numbers 2, 4 and 6 Annesley Place and the former light industrial and commercial building at 19-21 Spring Garden Street and the construction of a mixed use scheme (2,426 square metres) comprising: a ground floor retail unit (458 square metres) fronting Spring Garden Street and Annesley Place; an aparthotel (1,878 square metres) fronting Annesley Place, arranged over five floors, consisting of 41 number aparthotel units with reception and café at ground floor, (36 number one bedroom, four number one bed suite and one number two bed duplex), 25 of the aparthotel units include balconies, two number landscaped roof

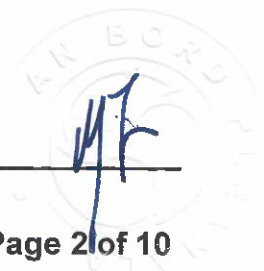
terraces at third floor level (85 square metres and 52 square metres respectively); two number accessible parking spaces and a bicycle store (32 number spaces) shared plant and ancillary facilities including refuse store (35 square metres), switch room and plant rooms (90 square metres) located to the rear of the proposed site; boundary screen walls, gates, vehicular entrance (off Spring Garden Street) and pedestrian entrances (off Annesley Place and Spring Garden Street), signage and all associated site and landscaping works on and above ground all on 0.132 hectare site at 19-21 Spring Garden Street and numbers 2, 4 and 6 Annesley Place, 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 Z1 Zoning Objective for the area under which hotel is a permitted use and the provisions of the Dublin City Development Plan 2016-2022 together with the pattern, character and appearance of development in the area and the proximity to significant public transport facilities, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an appropriate form of development in this location, would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of urban design and surrounding residential amenity. 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 on the 11th day of August 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 aparthotel units shall only be occupied for short-term letting periods of no more than two months and shall operate within the definition of an aparthotel as set out in Appendix 16 of the Dublin City Development Plan 2016-2022. In addition, the aparthotel shall be managed by a reception facility on the ground floor with twenty-four-hour reception and security facilities. The aparthotel units shall not be used as independent and separate self-contained permanent residential units.

Reason: In the interest of orderly development and to protect residential amenities

3. The developer shall comply with the following requirements of Iarnród Éireann;
 - (a) The Railway Safety Act 2005 places an obligation on all persons carrying out any works on or near the railway to ensure that there is no increase in risk to the railway as a consequence of these works. Because of the proximity of the site to the Railway, the developer must take into account this obligation in Design, Construction and Operation of the scheme.
 - (b) No building or part of building, that is, balconies, shall be constructed within four metres of the boundary treatment on the developer's side. This is to allow for the developer to maintain the building, without the need to enter Board Property.
 - (c) No overhang of any part of the development over the railway property shall be allowed.
 - (d) Drainage downpipes from the railway arches/retaining walls and their subsurface drainage shall be protected during construction works.

- (e) It should be noted by the developer that a height restricted bridges under the railway exists at Spring Garden Street at 4.53 metres and Annesley Close at 4.47 metres. During the construction phase of the project, a proper Traffic Management Plan shall be drawn up to prevent construction traffic from having to traverse under this bridge and other height restricted bridges in the area. The developer must ensure that no overheight vehicles attempt to pass under these bridges and that the routes for all high vehicle movements are planned.
- (f) Should the development require the use of a crane that could swing over the railway property, then the developer must enter into an agreement with Iarnród Éireann/C.I.E. regarding this issue.

Reason: In the interest of orderly development.

4. The outdoor communal open spaces, located at third floor level shall not be used between the hours of 10 p.m. and 8 a.m. Access to the first-floor landscaped roof shall be for maintenance only and shall not be used as an external amenity at any time.

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

5. Details of the materials, colours and textures of all the external finishes to the proposed buildings, including landscaping of the courtyard/amenity areas, 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. Wind treatment of the ground floor units shall be clear glazed and kept free of stickers and signage at all times.

Reason: In the interest of visual amenity.

7. (a) Cycle parking shall be secure, conveniently located, sheltered and well lit. Key/fob access shall be required to bicycle compounds. Cycle parking design shall allow both wheel and frame to be locked.
- (b) Details of the vehicular access/exit point to the development and the public footpath shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development.

Reason: To ensure a satisfactory standard of development.

8. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site or any adjoining lands under the control of the developer unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

9. 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 amenities of property in the vicinity and the visual amenities of the area.

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

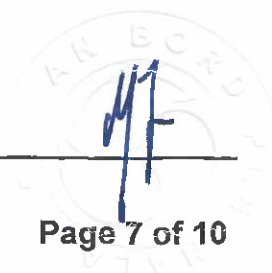
Reason: In the interest of public health.

11. Site development and building works shall be carried out only between the hours of 0700 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 residential amenities of property in the vicinity.

12. The works hereby consented shall not impact on the structural integrity of adjoining properties located at Saint Patrick's Avenue and Annesley Place. Prior to commencement of development, the developer shall carry out a detailed condition survey of the properties on Saint Patrick's Avenue and Annesley Place, which bound the site. Any identifies remedial works identified by the survey shall be carried out in a timely manner.

Reason: In the interest of orderly development.



13. Construction and demolition waste shall be managed in accordance with a construction and demolition waste 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 and to mitigate potential construction nuisance.

14. 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.

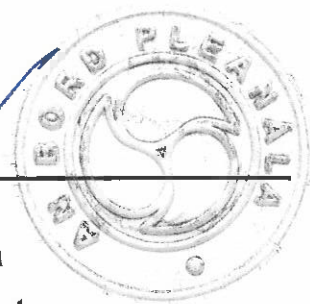
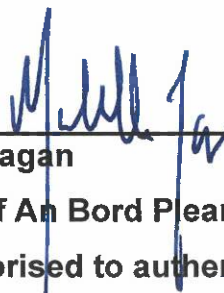
Reason: In the interests of public safety and residential amenity.

15. 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 or management company 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.

16. 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.



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

Dated this **6th** day of **April** 2022.