

Planning and Development Acts 2000 to 2021

Planning Authority: Dublin City Council

Planning Register Reference Number: 3233/21

Appeal by Alan Phillips and others of 12 Peter Place, Off Charlemont Street, Dublin and by Patrick and Sheila O'Shea of 28 Peter Place, Dublin against the decision made on the 22nd day of September, 2021 by Dublin City Council to grant subject to conditions a permission to Berwick Properties Limited care of RW Nolan and Associates of 37 Lower Baggot Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Development consisting of a five-storey above-ground floor residential building totalling six storeys overall, at a height of 20.8 metres containing 19 apartments comprising of three number studio units, 10 number one-bedroom units and six number two-bedroom units all with private balcony, concierge facilities, a communal meeting room at ground floor level of 56 square metres and a communal terrace at fourth floor level of 26.6 square metres. Bin storage is provided at ground floor level as well as a 32-space secure bicycle parking area. The proposal also includes landscaping works and all associated site works, all at Peter 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.

Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2022-2028 and the zoning of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual and residential amenities of the area, would not be prejudicial to public health, and would constitute an acceptable form of development at this location in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 proposed 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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The construction of the proposed 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:
 - (a) Location of the site and materials compound(s), including areas identified for the storage of construction refuse.
 - (b) Location of areas for construction site offices and staff facilities.
 - (c) Details of site security fencing and hoardings.
 - (d) Details of on-site car parking facilities for site workers during the course of construction.
 - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
 - (f) Measures to obviate queuing of construction traffic on the adjoining road network.
 - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
 - (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.

- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

- 4. (a) No part of the development shall encroach upon the public road, by means of underbuild or overhang, including façade projection or hard landscaping. The development shall be constructed wholly within the red line ownership boundary.
- (b) Any works to the footpath and road on Peter's Place to facilitate a potential pedestrian crossing shall be agreed with the Council's Traffic Advisory Group (TAG) prior to commencement of development. All works shall be provided at the developer's expense.
- (c) All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of the development shall be at the expense of the developer.

Reason: In the interest of orderly development.

5. The following requirements of Transport Infrastructure Ireland shall be complied with:
- (a) Prior to commencement of development, details of proposed 'full height screens', which are proposed where windows and balconies are within the overhead conductor system exclusion zone, shall be submitted to TII for written agreement.
 - (b) Prior to commencement of development, details of the interface between the proposed piling and Luas infrastructure, with reference to the Luas embankment on the subject site, shall be agreed in writing with TII. Such details shall include the following, inter alia:
 - (i) An engineering assessment of the possible impact of the construction of the development in terms of potential vibration and settlement to the Luas embankment.
 - (ii) A subsequent vibration and settlement monitoring specification from the engineers that undertook the engineering assessment.
 - (iii) A site survey on the existing foundations of the embankment shall also be required to ensure that there will be no clashes with the proposed piles and the existing Luas embankment foundations.
 - (iv) A monitoring plan that is in accordance with the monitoring specification from a specialist monitoring contractor.
 - (c) The Luas operator/TII will require 24-hour access to Luas infrastructure. Prior to commencement of development, the developer shall enter into an access and maintenance agreement with TII, which shall be submitted as part of the Construction Management Plan as required hereunder.

- (d) In respect of works which are proposed to be carried out in close proximity to Luas infrastructure, the developer or contractor shall ensure that there is no adverse impact on Luas operations and safety and shall be required to apply for a works permit from the Luas Operator by virtue of the Light Railway (Regulation of Works) Bye-laws 2004 (S.I. number 101 of 2004) which regulates works occurring close to the Luas infrastructure in accordance with TII's 'Code of engineering practice for works on, near, or adjacent the Luas light rail system'.
- (e) All deliveries made to the development site, including during the construction and operational phase, shall be made to limit interference with Luas operations. Such works shall be subject to a permit from the Light Rail Operator and shall be submitted as part of a Construction Management Plan as required hereunder.
- (f) In the event that any works which require the removal, and temporary and final reinstatement of Luas infrastructure are to be undertaken outside of Luas operational hours, under system shutdown and Overhead Conductor System isolation, such works shall require a Luas permit.
- (g) Proposed foul and surface water drainage shall not utilise, discharge, surcharge or share common outfalls with existing Luas infrastructure.

- (h) The developer shall be responsible for any loss of Luas revenue, or any other costs associated with a suspension of passenger services, or alterations to the Luas infrastructure, which may arise out of, or as a consequence of, the design, construction or the operation of the development by the developer, contractors, sub-contractors, their employees or agents or any other related party. Appropriate agreements between TII, the Luas Operator and the developer shall be undertaken and completed prior to commencement of development.
- (i) (i) Prior to commencement of development, a Construction Traffic Management Plan, including access to services, shall be submitted for the written agreement of the planning authority and subject to the written agreement of TII. The Construction Traffic Management Plan shall identify mitigation measures to protect operational Luas infrastructure.
- (ii) Prior to commencement of development, a Demolition and/or Construction Method Statement shall be submitted for the written agreement of the planning authority and subject to the written agreement of TII. The method statement shall resolve all Luas interface issues and shall: (i) identify all Luas alignment interfaces, (ii) contain a risk assessment for works associated with the interfaces, and (iii) contain mitigation measures for unacceptably high risks, including vibration and settlement monitoring regime, if necessary. The method statement shall be in accordance with TII's 'Code of engineering practice for works on, near, or adjacent the Luas light rail system'.

- (iii) Prior to the commencement of development, where Overhead Conductor System (OCS) poles and/or fixings are located on/or adjacent to the proposed development, the following plans and details shall be submitted for the written agreement of the planning authority and subject to the written agreement of TII: (i) OCS pole protection and safety distances, and/or (ii) existing, temporary and subsequent permanent fixings specifications/plans.
- (j) The development shall ensure no risk of intrusion of people into the OCS danger zone via opening windows, maintenance, cleaning, balconies, or terraces. The danger zone is described in TII's 'Code of engineering practice for works on, near, or adjacent the Luas light rail system' defined by a 2.75-metre offset in all directions from the nearest item of OCS infrastructure.
- (k) The developer shall be required to ensure that any works, including landscaping, planting and signage, do not impede tram drivers' visibility of road junctions, associated signals or affect the footpath to the extent that pedestrians may walk into the swept path of oncoming trams.

Reason: To ensure no adverse impact on Luas operations and safety.

- 6. 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 or public holidays. Deviation from these times shall 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.

7. 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.

8. 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.

9. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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 operations (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the planning authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

10. Proposals for an estate name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features or alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of the development in the interest of residential amenity.

12. Prior to occupation of the development, a Mobility Management Strategy (travel plan) shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carsharing by residents and staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. This strategy shall include site specific measures to discourage overspill parking in Peter Place.

Reason: In the interest of encouraging the use of sustainable modes of transport.

13. 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.

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

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 interest of visual 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 of roads, 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 referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

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.

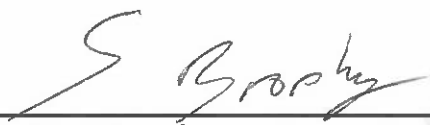
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

17. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended, as a contribution in lieu of the public open space requirement in respect of public open space 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 Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

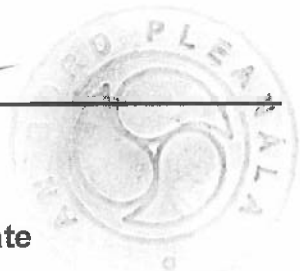
Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

18. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Cross City Scheme 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.



Stephen Brophy
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.



Dated this 4th day of May 2023.