

An
Bord
Pleanála

Board Order
ABP-311618-21

Planning and Development Acts 2000 to 2021

Planning Authority: Dublin City Council

Planning Register Reference Number: 2062/21

Appeal by Padamul Limited care of Maurice McCarron of Killcarran, Emyvale, County Monaghan and by other and by KW Investments Funds ICAV care of Stephen Little and Associates of 26/27 Upper Pembroke Street, Dublin against the decision made on the 16th day of September, 2021 by Dublin City Council to grant subject to conditions a permission to the said KW Investments Funds ICAV in accordance with plans and particulars lodged with the said Council.

Proposed Development: Proposed development comprises office redevelopment (circa 39,932 square metres total), including: a new four to eight storey office building (circa 32,101 square metres gross floor area office space) over double basement (circa 6,347 square metres) with setbacks at fourth, fifth and sixth floor levels; insert terraces at first, second and third floor levels to Saint Stephen's Green and Harcourt Street; and roof terraces at fourth, fifth, sixth and seventh floor levels; one number retail/café/restaurant unit (circa 465 square metres gross floor area) and all associated and ancillary site works, hard and soft landscaping, including: demolition of existing five to seven storey office complex, including basement (circa 17,550 square metres gross floor area); vehicular and pedestrian access to site and

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basement car park at existing site entrances at Saint Stephen's Green South and Harcourt Street; new double basement to accommodate 70 number car parking spaces (of which four number disabled spaces and 35 number with EV points), 600 number bicycle spaces, 25 number motorbike spaces, storage, plant and office welfare facilities; 20 number surface level visitor bicycle parking spaces; planting and hard landscaping of circulation and amenity spaces at lower ground to seventh floor levels; ancillary plant and stair/lift core at roof level; ESB sub station; six number 300 millimetres microwave link dishes in total, on a three metre steel pole support structure together with associated equipment on the rooftop of Block A; construction management measures at the interface of the proposed works and protected structures, including number 100 Saint Stephens Green and number 91 Harcourt Street, all at Stokes Place, Saint Stephen's Green South and Harcourt Street, Dublin. The site is generally bounded by numbers 92-100 Saint Stephen's Green (Protected Structure) and small apartment block to the rear of number 95 Saint Stephen's Green to the north and east; Harcourt Street to the west; numbers 87-91 Harcourt Street (Protected Structures) and buildings on Clonmel Street to the south and Iveagh Gardens (Protected Structure) to the south-east.

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.

**An amendment to this
Board Order has been made**

Dated 25/04/23

Signed: Secretary 

Reasons and Considerations

Having regard to the city centre location of the site in close proximity to a wide range of public transport options and other services, the provisions of the Dublin City Council Development Plan 2022-2028, the Urban Development and Building Heights - Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2018, the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in October 2011, and the National Planning Framework, which seeks to direct new development in cities into built-up serviced areas, the pattern and character of development in the area and the design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development, which would replace an underutilised brownfield site, would contribute to the streetscape at lower levels and will add vibrancy and footfall to the immediate area, would constitute an acceptable quantum of development in this accessible urban location, would not seriously injure the amenities of surrounding properties or seriously detract from the character or built heritage of the Georgian Conservation Area, would not be likely to result in any significant effects on Natura 2000 sites, and would be acceptable in terms of pedestrian and traffic safety, ecology, flood risk, and drainage. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

**An amendment to this
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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 to the planning authority on the 20th day of August, 2021 and by the further plans and particulars received by An Bord Pleanála on the 11th day of November 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. Details, including samples 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. 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.

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4. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

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

Reason: To protect the visual amenities of the area.

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 and public holidays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.

7. 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:

(a) location of the site and materials compound(s) including area(s) 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,

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- (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, and
- (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.

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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 interests of public safety and residential amenity.

8. The developer, in consultation with Transport Infrastructure Ireland, shall ensure that the surrounding LUAS rail infrastructure is suitably protected during the construction and operational phases of the development. Detailed plans and proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect key transport infrastructure and ensure a satisfactory standard of development.

9. (a) Any alterations to the public road or footpath shall be in accordance with the requirements of the planning authority and where required, all repairs to the public road and services shall be carried out to the satisfaction of the planning authority at the developer's expense.
- (b) Proposals for the upgrade of the existing pedestrian crossing on Saint Stephen's Green South to a toucan crossing shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of clarity, public safety and amenity.

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10. 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.

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 prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

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12. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

Reason: In the interests of visual and residential amenities.

13. 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,
 - (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall under licence to the National Monuments Service, assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the archaeological and historical background of the site,
- (ii) the nature and location of archaeological material on the site established through archaeological testing, and

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- (iii) 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, in consultation with the National Monuments Service, details regarding any further archaeological requirements (including if necessary, any necessary archaeological monitoring and/or excavation/s to be programmed and funded by the developer 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 site and to secure the preservation and protection of any archaeological remains that may exist within the site.

14. A minimum of 20% of the proposed car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transport.

15. The developer shall submit to, and agree in writing with, the planning authority, a finalised Mobility Management Plan within six months of the occupation of the development.

Reason: In the interest of sustainable transport.

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16. 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 local 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 such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: To ensure the satisfactory completion of the development.

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.

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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 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.

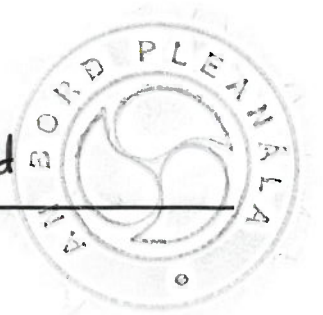
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Dr. Maria FitzGerald

Maria FitzGerald

Member of An Bord Pleanála

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



Dated this 20th day of January 2023.

An amendment to this
Board Order has been made

Dated 25/04/23

Signed: Secretary *Eileen W...*