

An
Bord
Pleanála

Board Order
ABP-311864-21

Planning and Development Acts 2000 to 2021

Planning Authority: Dublin City Council

Planning Register Reference Number: 2046/21

Appeal by Teelings Whiskey Company care of Cunnane Stratton Reynolds of 3 Molesworth Place, Dublin against the decision made on the 7th day of October, 2021 by Dublin City Council to grant subject to conditions a permission to Creedon Group Limited care of Declan Brassil and Company Limited of Lincoln House, Phoenix Street, Smithfield, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of all existing buildings on site and the construction of a new building that ranges in height between five and seven storeys above basement level onto Newmarket (to the north), and between two to nine storeys onto Mill Street (to the south), with a total Gross Floor Area (GFA) of 4,413 square metres (excluding the basement of 222 square metres GFA). Two retail units are proposed at ground floor level fronting Newmarket and Mill Street, with approximate floor areas of 173 square metres and 153 square metres respectively. The building is arranged around a central courtyard with the retail units backing onto the central courtyard that is proposed to be used for occasional market events in conjunction with the retail units that open onto this space. A total of 33 number residential apartments (comprising six number one bedroom units; 25 number two bedroom units; and two number three bedroom units) are provided on the upper floors of the building. Ancillary communal residential amenity spaces are situated at

ground floor level adjoining the courtyard and at mezzanine level above the Mill Street retail unit, which also includes a management office. The setbacks to the building at upper levels provide roof terraces and balconies to serve the residential units. A total of seven number roof terraces/balconies are proposed at levels two, three and four, comprising four number south facing, two number west facing, and one number north facing terraces/balconies. A total of six number balconies are proposed at level five, comprising two number south facing, one number south-east facing, two number west facing, and one number north facing balconies. At level six, a total of five number balconies (comprising two number south facing, two number west facing and one number north facing terraces) and three number roof terraces (comprising two number north facing and one number south facing terraces) are provided. Two communal roof terraces of approximately 175 square metres are provided at level seven facing north and west. In addition, two number balconies (one number north facing and one number south facing) and two number roof terraces (one number west facing and one number north facing), are also provided at level seven. A west facing terrace and north facing balcony are provided at level eight. An ESB sub-station and switch room (36 square metres) is provided at ground floor level at the southern end of the building, fronting Mill Street. A basement level is provided at the northern end of the building, below the Newmarket retail unit, to provide bicycle storage (81 number bicycle parking spaces), along with waste/bin store and plant room, all at numbers 10-12 Newmarket and number 32 Mill Street, 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 nature and scale of the proposed development, the site's city centre location, the proximity to a wide range of public transport options, the provisions of the Dublin City Council Development Plan 2022-2028, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2020 and the updated 2022 version, 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 National Planning Framework, which seeks to deliver compact development on brownfield sites and to the pattern and character of development in the area, the design and scale of the proposed development and the site's planning history, 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 amenity of the area, would be acceptable in terms of urban design, height and quantum of development and would not conflict with neighbouring land uses. 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 10th day of September, 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 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. All external lighting details shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of the development.

Reason: In the interests of visual and residential amenities.

4. 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.

5. 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.

6. No signage, advertising structures/advertisements, security shutters or other projecting elements, including flagpoles, shall be erected on the building or within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. Prior to the commencement of works above ground level, full details of the proposed shopfronts (including materials, colour, fascia and any security measures) shall first be submitted to, and agreed in writing with, the planning authority.

A window display shall be maintained to both retail units at all times and the glazing to the shopfronts shall be kept free of all stickers, posters and advertisements.

Reason: In the interest of visual amenity.

8. The proposed retail units shall operate only during the hours of 0700 and 2200 any day of the week, unless otherwise agreed in writing with the planning authority.

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

9. 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 the 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.

10. The naming and numbering of streets, buildings and business or dwelling units shall be in accordance with a street naming and numbering scheme submitted to, and agreed in writing with, the planning authority. The names selected shall reflect local place names, or be of local historical interest, and be in both Irish and English and shall be installed on site prior to the occupation of the scheme. The developer shall consult with Dublin City Council's Irish Officer in relation to the translation of names.

Reason: In the interests of orderly street naming and numbering, to enhance urban legibility and to retain local place name associations.

11. The site development and construction works shall be carried out in such a manner so as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe conditions during construction works in the interest of orderly development.

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

13. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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

14. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

15. (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 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) The plan shall provide for screened communal bin stores, which shall be adequately ventilated, drained and illuminated. The design and location of same 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.

17. 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.

18. 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 public open spaces, 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 this development in the interest of residential amenity.

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

20. 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 agreement, shall be referred to An Bord Pleanála for determination.


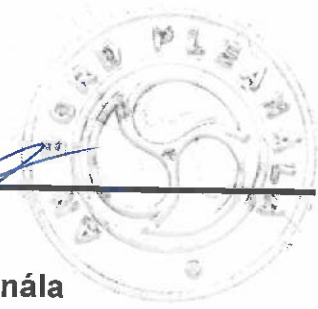
Reason: To ensure the satisfactory completion of the development.

21. 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.

22. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City 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 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 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 16 day of March 2023