



Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 3193/22

Appeal by Eoin Duff and others care of Marston Planning Consultancy of 23 Grange Park, Foxrock, Dublin against the decision made on the 21st day of June, 2022 by Dublin City Council to grant subject to conditions a permission to Double E Investments Limited care of Hughes Planning and Developments Consultants of 85 Merrion Square, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Planning permission is sought for the development comprising: (i) demolition of the existing two storey building (licensed public house and ancillary off-licence); (ii) construction of a part four, five and six storey (over basement) mixed use development consisting of the following: (a) 42 number apartments, comprising of 19 number one-bed apartments and 23 number two-bed apartments (accessed from Bunting Road). Each unit will have access to private amenity space in the form of a balcony/terrace and 381.6 square metres of external communal amenity space provided at fourth and fifth floor levels; (b) three number retail units at ground floor level totally 146 square metres (accessed from Walkinstown Road and Bunting Road); (c) a 384 square metres public house at ground floor level (accessed from

Walkinstown Road, Cromwellsfort Road and Bunting Road). The development is served by refuse storage; a plant room; an ESB substation; 99 number bicycle parking spaces, including one number accessible space and two number cargo bicycle spaces located internally at ground floor level and 39 number visitor bicycle parking spaces located externally; (iii) extended excavation of existing basement to provide for 16 number car parking spaces (including 1 number limited mobility parking space). Vehicular access to the basement will be provided via a vehicle lift accessible via Bunting Road; (iv) provision of telecommunications infrastructure at roof level comprising (a) six number 5G antennas and six number hexaband antennas. Each antenna will be enclosed within shrouds (2.8 metres in height above parapet). A total of six number shrouds will be provided, each containing one number 5G antenna, one number hexaband (2G/3G/4G) antenna; (b) six number 0.3 metre microwave link dishes on three number steel support poles (two metres in height above the lift shaft overrun); (c) all associated equipment. (v) landscaping and all associated site development works necessary to facilitate the development, all at Kestrel House, 157 Walkinstown Road, Dublin with frontage to Cromwellsfort Road and Bunting Road.

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 zoning for the site, to the nature and scale of the proposed development, and to the provisions of the Dublin City Development Plan 2022-2028, the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2024, and the Sustainable Urban

Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2023, it is considered that, subject to compliance with the conditions set out below, the proposed development would feature appropriate uses, building heights, density, design and layout for this site, would respect the character and setting of the area, would not seriously injure the amenities of the area or of property in the vicinity, would provide a suitable level of amenity for future occupants, would feature an appropriate provision of drainage, access and parking services, would be acceptable in terms of road safety and would not interfere with telecommunications signals. 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 Further Information received by the planning authority on the 25th day of May 2022, 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 the commencement of development, the following shall be submitted to, and agreed in writing with, the planning authority:
 - (a) Details of the materials, colours and textures of all the external finishes to the proposed development.

- (b) Full details, including samples where appropriate, of the treatment of the areas of public realm within the site boundary which shall include full details of the paving materials, seating and street lighting.
- (c) Details of the servicing of the commercial elements of the proposed development including the collection of wastes and any short term parking associated with the servicing of these areas.
- (d) Details of appropriate privacy screening for the metal railings of the proposed apartment balconies.
- (e) Full details of design of the screening of the communal roof spaces in respect of privacy and wind mitigation.
- (f) Details of a maintenance strategy for materials within the proposal.

Reason: In the interest to residential and visual amenity, traffic safety and orderly development.

3. Prior to the commencement of development, the developer shall liaise with the National Transport Authority with regards to any future requirements for Bus Connects.

Reason: In the interest of orderly development.

4. Prior to the occupation of the proposed non-residential units (public house and retail units), details of the occupant of the public house and retail units, including finalised service details and opening hours, and details of any proposed signage to be applied to the elevations of the respective units, including details of the glazing, materials, colour,

lettering and depth of the signage, shall first be submitted to and agreed in writing with the planning authority.

Reason: In the interest of clarity and the visual amenity of the area.

5. (a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

- (b) An existing public surface water sewer extends into the red line site boundary of the site at Walkinstown Road. The exact location of this sewer must be accurately determined onsite prior to the commencement of the development. A clear minimum distance of three metres shall be maintained between this sewer and all structures on site. No additional loading shall be placed on this sewer.

Reason: In the interest of public health and surface water management.

6. The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

7. Proposals for naming the development and a unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signage and unit numbers shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing

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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.

8. (a) The basement car parking shall be reserved solely to serve the development on the subject site. Car parking spaces shall not be utilised for any purpose other than those stated in the application unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a final Parking Management Plan shall be prepared for the development and shall be submitted to, and agreed in writing with, the planning authority. This plan shall provide for the means of how the car parking spaces shall be assigned and managed by the management company.
- (c) Details of all cycle parking, including the provision of cargo-cycle parking spaces, shall be submitted to and agreed in writing with the planning authority prior to the occupation of development.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed development.

9. A minimum of 50% of the proposed car parking spaces shall be provided with electric-connection points, to allow for functional electric-vehicle charging. The remaining car parking spaces in the basement car park shall be fitted with ducting for electric-connection points to allow for future fit-out 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.

10. Prior to the occupation of the development, a finalised Mobility Management Plan shall be submitted to, and agreed in writing with, the planning authority. This plan shall include modal shift targets and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents of the development and to reduce and regulate the use car parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

11. Lighting shall be provided in accordance with a final scheme, which shall include lighting for the communal open spaces, basement parking and entry areas, bicycle parking and bin storage areas, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any residential or commercial unit.

Reason: In the interests of amenity and public safety.

12. All service cables associated with the proposed development (other than the rooftop antennae 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.

Reason: In the interests of visual and residential amenity.

13. The control of odour and noise emissions from the proposed public house shall be in accordance with the detailed construction standards of the planning authority for such works, including extract duct details and noise minimisation measures, which will be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

14. The internal noise levels, when measured at the windows of the proposed apartments, shall not exceed:

(a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and

(b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed apartments are made available for occupation.

Reason: In the interest of residential amenity.

15. (a) Amplified music or other specific entertainment noise emissions from the proposed hospitality unit shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling, including

apartments, in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeq.T.

- (b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedance criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.
- (c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either
 - (i) during a temporary shutdown of the specific noise source, or
 - (ii) during a period immediately before or after the specific noise source operates.
- (d) When measuring the specific noise, the time (T) shall be any five-minute period during which the sound emission from the proposed hospitality unit is at its maximum level.
- (e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. An acoustical analysis shall be included with this submission to the planning authority.

Reason: In order to protect the amenities of residential property in the vicinity having particular regard to the nuisance potential of low-frequency sound emissions during night-time hours.

16. (a) Prior to the installation of the rooftop telecommunications antennae precise specifications of the antennae shall be submitted to the planning authority for agreement and shall be sited in accordance with the revised plans and elevations submitted to the planning authority by way of further information on the 25th day of May 2022.
- (b) With the exception of rooftop antennae referred to in (a) above, 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 visual and residential amenity.

17. The rooftop communal open spaces shall be landscaped in accordance a landscaping scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall be designed by a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme and communal open space shall be completed before any of the apartments are made available for occupation and shall be maintained thereafter by the management company.

Reason: In the interest of visual and residential amenity.

18. (a) Prior to commencement of development, the developer shall delineate on a map those areas that are to be taken in charge for the written agreement of the planning authority.

- (b) All areas not intended to be taken in charge by the planning authority, shall be maintained by a legally constituted management company.
- (c) Details of the legally constituted management company contract, and drawings/particulars describing the parts of the development for which the legally constituted management company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the proposed units are made available for occupation. The management scheme shall provide adequate measures for the future maintenance of communal areas.

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

19. (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.

20. 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 all intended construction practice for the proposed development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

21. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan as set out in the Environmental Protection Agency'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 Resource Waste Management Plan shall include specific proposals as to how the Resource Waste Management Plan will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The Resource Waste Management Plan 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 Resource Waste Management Plan shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

22. Prior to the commencement of development, the developer shall submit to the planning authority for written agreement, a plan indicating how telecommunications signals will be maintained during the construction phase, prior to the commissioning of the new rooftop telecommunications antenna.

Reason: In the interest of maintaining uninterrupted telecommunications signals.

23. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the amenities of property in the vicinity.

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

25. 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.

26. 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.

27. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities including a contribution in lieu of the public open space requirement 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.



Una Crosse

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

Dated this *27th* **day of** *March* **2024.**