

An
Bord
Pleanála

Board Order ABP-315080-22

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 4704/22

Appeal by Frank Gleeson care of Joe Bonner Town Planning Consultant of The Airport Hub, Unit 1, Furry Park, Old Swords Road, Santry, Dublin against the decision made on the 14th day of October, 2022 by Dublin City Council to refuse permission for the proposed development.

Proposed Development: Permission (1) to demolish an existing two-storey building containing a bar, restaurant, bookmakers and takeaway and (2) for the construction of a new commercial/residential mixed use development, consisting of a five-storey over part-basement structure containing 240 square metres hospitality/commercial unit at ground level with a 142 square metres basement, a 140 square metre retail unit also at ground floor level, 48 number apartments over four storeys, with balconies (three number three-bed, 31 number two-bed, 14 number one-bed units), public and communal open space at first floor plaza level, communal open space at fourth floor level, pedestrian access at Main Street and Ballygall Road, a total of 31 car parking spaces and 106 bicycle parking spaces at ground level, vehicular access from Main Street and vehicular exit onto Ballygall Road, waste storage, ancillary site development works, associated services and landscaping, all at The Bottom of the Hill Bar, Main Street and Ballygall Road, Finglas, Dublin adjacent to a protected structure (RPS number 4850 in the Dublin City Development Plan 2016-2022).

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, 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 and the Urban Development and Building Heights, Guidelines for Planning Authorities prepared by the Department of Housing, Planning and Local Government in 2018, 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, including the Rosehill House Protected Structure and its associated conservation 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, would not be at risk of flooding and would not increase the risk of flooding to other lands. 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, 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 proposed development shall be amended as follows:
 - (a) 1.5 metre-deep defensible space shall be provided to the communal roof terrace areas directly adjoining the private terraces serving apartments 42, 43 and 44.

Revised drawings and details showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matters in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of the amenities of future occupants of the proposed development.

3. Prior to the occupation of the proposed non-residential units (hospitality unit and retail unit), final use for the proposed hospitality unit, finalised service details and opening hours, as well as 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.

4. Details of the materials, colours and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

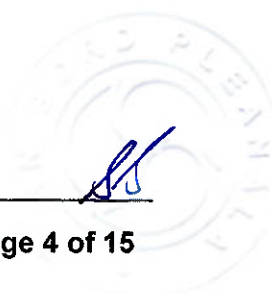
Reason: In the interest of visual amenity.

5. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, 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 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 development.

6. The road works along Main Street and Ballygall Road West, including the vehicular access and exit serving the proposed development, and the layout of the proposed development, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. Proposals for gates/barriers to the car park and pedestrian crossing details, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.



7. (a) The car parking facilities hereby permitted shall be reserved solely to serve the development on the subject site. Car parking spaces shall not be utilised for any other purpose 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 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 permanent retention of the designated residential and non-residential parking spaces and shall indicate how these spaces, including visitor spaces, within the development shall be assigned, segregated by use and how car, cycle, motorcycle and car-share club parking, shall be continually managed.
- (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.

8. A minimum of 50% of the proposed car parking spaces should be provided with electric-connection points, to allow for functional electric-vehicle charging. The remaining car parking spaces in the undercroft 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.

9. 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 extent of 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.

10. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

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

(a) Prior to commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

(b) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

(c) A maintenance policy to include regular operational inspection and maintenance of the Sustainable Urban Drainage System infrastructure

and fuel interceptors shall be submitted to and agreed in writing with the planning authority prior to the occupation of the proposed development and shall be implemented in accordance with that agreement.

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

12. Lighting shall be provided in accordance with a final scheme, which shall include lighting for the communal open space, undercroft parking and entry 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 unit.

Reason: In the interests of amenity and public safety.

13. The control of odour and noise emissions from the proposed hospitality unit 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. 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 amenities of the area.

17. 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.

Reason: In the interests of visual and residential amenity.

18. A plan containing details for the management of waste, 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 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 waste storage.

19. (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.
- (c) 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.

20. The areas of communal open space shown on the lodged plans shall be reserved for such use. These areas shall be landscaped in accordance with the conditions above and the landscape design (drawing number P684 01) and landscape details (drawing number P684 02) submitted to the planning authority on the 22nd day of August, 2022. This communal open space shall be completed before any of the apartments are made available for occupation.

Reason: In order to ensure the satisfactory development of the communal open space areas, and their continued use for this purpose.

21. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion,



the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the Local Authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

22. 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 in advance of the commencement of development works on the site (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 between the parties regarding compliance with any of the requirements of this condition, 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.

23. 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 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 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.

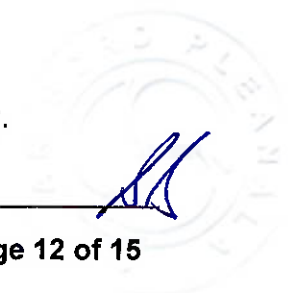
Reason: In the interest of sustainable waste management.

24. 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 the proposed construction compound(s), details of intended construction practice for the development, including, noise and dust management measures, asbestos survey and, if necessary a management plan for removing asbestos, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.

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

25. 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 amenities of property in the vicinity.

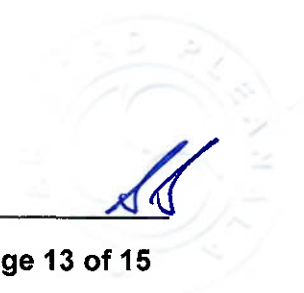


26. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, 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.

27. 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.



28. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities, and 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.

29. 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.




Stephen Bohan

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *24th* day of *February* 2024