

An
Bord
Pleanála

Board Order ABP-315887-23

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 4778/22

Appeal by Aloft Hotel care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin against the decision made on the 26th day of January, 2023 by Dublin City Council to grant permission subject to conditions to TC Fumbally Properties Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Permission for modifications to the mixed use development permitted under planning register reference number 4423/19 and An Bord Pleanála reference number 307217-20. The proposed modifications to the permitted development consist of the following: • Change of use of the 69 number permitted single occupancy shared accommodation units and amenity spaces from fourth to seventh floor level and extension to permitted seventh floor level to provide 86 number hotel bedrooms. • Internal alterations to permitted first to third floor level to provide five number additional hotel bedrooms on previously permitted floors. • The proposed development will increase the total number of permitted hotel rooms to 235 number rooms. • Internal alterations to permitted ground floor level including the removal of residential lounges, gym, restaurant and public community/event space. • The proposed ground floor level comprises co-working, café/restaurant event space, hotel reception, lounges areas and ancillary back of house areas. • Omission of the basement and relocation of plant to an enclosure at seventh floor level. • Provision of

three number new window openings to the existing building, a Protected Structure under RPS reference number 5821, minor alterations to the previously permitted works to the façade to the Protected Structure including reconfiguration of main entrance points and modifications to the fenestration at first floor level. • The proposed development includes elevational changes to the permitted eight storey building to the southwest of the site including enclosure of the multi-storey staircase. Provision of a circa 1.4 metre pop-up area at roof level for ventilation purposes and increased parapet height of the building by 300 millimetres to accommodate blue roof system. • Reduction in cycle parking provision at ground floor level. • All associated development at 27-29 New Row South, Dublin. The application site is located at the junction of New Row South to the northwest, Blackpitts to the west and Fumbally Lane to the south and southeast. The site contains a protected structure (referred to as a former laundry building under RPS reference number 5821).

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 site's 'Z6' land use zoning in the Dublin City Development Plan 2022-2028, the planning history of the site (reference number ABP-307217-20) which the proposed development seeks modifications to, the nature and scale of the modifications now sought to accommodate a hotel with ancillary café/restaurant and co-working areas, the pattern of development in the surrounding area, including planning permissions, in an area that has a rich built heritage character and is undergoing significant regeneration, renewal and change mainly in the form of more compact and denser developments with taller buildings, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum of development in this accessible urban location,

would respect the character and pattern of development in this area, would not seriously injure the amenities of surrounding properties or the visual amenities of the area and would make a positive contribution to local regeneration by removing the site's vacant state, providing a viable future use for the Protected Structure of numbers 27 to 28 New Row South (RPS reference number 5821) and by way of providing active uses at ground floor level, and would also be acceptable in terms of pedestrian and traffic safety. 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 received by the planning authority on the 21st day of December 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 developer shall submit plans for the written agreement of the planning authority revising the elevational and materials to the extension over the Protected Structure. This revision shall include the omission of the thick heavy capping from the elevation and include a light weight palette of materials, treatments and finishes that appropriately harmonise and are sympathetic to the Protected Structure (27 to 28 New Row South - RPS reference number 5821).

Reason: In order to protect the character of the Protected Structure.

3. Apart from the amendments authorised in this permission, the development shall comply in full with the terms and conditions attached to planning permission ABP-307217-20 (planning authority register reference number 4423/19) and the conditions of that permission.

Reason: In the interest of orderly planning.

4. The bedrooms and associated facilities and amenities hereby permitted shall be used as a hotel and for no other purpose within Part 2 or Schedule 2, Part 4 of the Planning and Development Regulations (as amended), without the prior grant of planning permission.

Reason: To clarify the scope of the permission, in the interests of amenity and the proper planning and sustainable development of the area.

5. All signage associated with the proposed use shall be the subject of a separate planning application to the planning authority.

Reason: In the interests of orderly development and the visual amenities of the area.

6. Notwithstanding the provisions of the Planning and Development Regulations 2001 (as amended), no advertisement signs (including any signs installed to be visible through the windows); advertisement structures, banners, canopies, flags, or other projecting element shall be displayed or erected on the building or within the curtilage or attached to the glazing without the prior grant of planning permission.

Reason: In the interest of visual amenity.

7. Window treatment of the ground floor units shall be clear glazed and kept free of visual obstruction including stickers and signage at all times.

Reason: In the interest of visual amenity.

8. Notwithstanding the provisions of Class 31 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, (or any equivalent provisions that may subsequently replace these provisions), no telecommunications apparatus that would otherwise constitute exempted development shall be installed on the application property without the written consent of the planning authority.

Reason: In order to afford the planning authority the opportunity to control these items in the interest of visual amenity.

9. The following requirements of the planning authority shall be strictly adhered to:
- (a) A suitably qualified conservation expert shall be employed to design, manage, monitor, and implement the works to the building and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.
 - (b) All works to the protected structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of the Environment, Heritage and Local Government. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued, and numbered to allow for authentic re-instatement.
 - (c) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.
 - (d) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.
 - (e) The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structure and the historic area.

Reason: To ensure that the integrity of this protected structure is maintained and that the proposed repair works are carried out in accordance with best conservation practice with no unauthorised or unnecessary damage or loss of historic building fabric.

10. The following requirements of the planning authority's Archaeology Department shall be strictly adhered to:
- (a) The developer shall retain a licensed archaeologist to carry out the archaeological requirements of the City Archaeologist.
 - (b) An archaeological method statement for impact mitigation (including temporary and enabling works) shall be provided in advance to the City Archaeologist. The method statement shall contain a detailed archaeological and historical desktop study of the subject site, to include industrial heritage. A copy of the licence application to the National Monuments Service shall also be provided.
 - (c) No construction or site preparation work shall be carried out on the site until all archaeological requirements of the City Archaeologist are complied with.
 - (d) The developer shall agree details for the preservation in situ and presentation of a section of the 18th century Recorded Monument within the new scheme with the planning authority prior to the commencement of development in writing.
 - (e) Details of the proposed construction methodology, including the phasing of any archaeological excavation, and the location of site compound, shall be agreed with the City Archaeologist prior to the commencement of development.
 - (f) The City Archaeologist recommends that Archaeological Excavation, as described below, be carried out prior to the commencement of development.
 - (g) The subject site in its totality shall be archaeologically excavated to the level of natural subsoil. All in situ features, including post medieval, shall

- be fully recorded prior to removal by hand excavation (unless methodology otherwise agreed) in these areas.
- (h) The archaeologist shall provide the City Archaeologist with progress updates during the ongoing excavation on a bi-weekly basis or otherwise as agreed.
 - (i) All piling shall be monitored by an archaeologist.
 - (j) Removal of the existing ground slab and all ground reduction to formation level shall be monitored by an archaeologist. If archaeological deposits are encountered above the formation of the new build, these are to be archaeologically excavated.
 - (k) In the event of in situ articulated human remains, being located during the course of this work, the archaeologist retained by the developer shall immediately notify the City Archaeologist and The National Monuments Service. Should such archaeological features be of great significance their preservation in situ shall be required. This may negate, or curtail, aspects of the development.
 - (l) A finds-retrieval strategy shall be developed by the licenced archaeologist and submitted for agreement with The National Monuments Service and the City Archaeologist.
 - (m) An environmental sampling and analysis strategy shall be developed by an environmental specialist in consultation with the licensed archaeologist with reference to best practice environmental standards. The strategy shall be submitted for agreement with The National Monuments Service and the City Archaeologist.
 - (n) The developer shall fund the post-excavation work and sufficient resources allocated to ensure that correct archaeological procedures are adhered to.
 - (o) The following shall be submitted to the planning authority:
 - (i) A bi-weekly report on the archaeological excavation during the excavation and post excavation period.

- (ii) A preliminary report on the archaeological excavation not later than four weeks after the completion of the excavation.
- (iii) A final report on the archaeological excavations not later than 12 months after the completion of the excavation. The final report must contain a full account of the stratigraphy, features, and finds and must include specialist reports and be suitably illustrated. It must interpret the site and place it in its archaeological and historical context.
- (iv) Following submission of the Final Report to the City Archaeologist, the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City Archaeological Archive Guidelines (2008 Dublin City Council) and lodged with the Dublin City Library and Archive, Pearse Street, Dublin or with another appropriate repository to be otherwise agreed with City Archaeologist within two years of excavation completion.

Reason: In the interest of preserving the special character and archaeological interest of the monument and of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

11. The following requirements of the planning authority shall be strictly adhered to:
- (a) Prior to the commencement of development, details of works and materials proposed within the public domain, New Row South and Blackpitts footpath and carriageway is required and shall be submitted to the planning authority for written agreement. Works and materials shall be in accordance with Construction Standards for Roads and Street Works in Dublin City Council, and all works shall be provided at the applicant/developer's expense.
 - (b) 28 number bike parking spaces shall be provided. Cycle parking shall be secure, conveniently located, sheltered and well lit. Shower and changing

facilities for staff shall be provided as part of the development. Key/fob access should be required to bicycle compounds. Cycle parking design shall allow both wheel and frame to be locked.

- (c) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.
- (d) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: In the interest of orderly development.

12. The following requirements of the planning authority shall be strictly adhered to:

The developer shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from www.dublincity.ie Forms and Downloads).

Reason: In the interest of the proper planning and sustainable development of the area.

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

Reason: In the interest of public health.

14. Prior to the commencement of above ground development, details of the materials, colours, and textures of all the external finishes to the proposed development shall be submitted to and agreed in writing by the planning authority. A panel of the proposed finishes to be placed on site to enable the planning authority to adjudicate on the proposals. Any proposed render finish shall be self-finish in a suitable colour and shall not require painting.

Construction materials as well as detailing shall adhere to the principles of sustainability and energy efficiency and high maintenance detailing shall be avoided.

Reason: In the interests of orderly development and the visual amenities of the area.

15. Prior to the commencement of development, a comprehensive boundary treatment, hard surfacing and landscaping scheme shall be submitted to and agreed in writing with the planning authority. This scheme shall include the following:
- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing, surfaces for the services drop/collection point and how the historic cobbles on site would be reused within the development;
 - (b) the proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
 - (c) details of external furniture, including bollards, lighting fixtures and seating;
 - (d) details of proposed boundary treatments at the perimeters of the site, including how repair of historic boundary structures are to be treated together with heights, materials and finishes of new boundary treatments, including gates and/or other structures proposed to enclose open space areas/routes within the scheme.

The boundary treatments, surfacing and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity and to ensure a satisfactory standard of development.

16. Comprehensive details of the proposed lighting scheme to serve the development, including its external spaces, shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational before the hotel opens.

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

17. Site development and building works shall be carried out only between the hours of 0800 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. Any such approval may be subject to conditions pertaining to the particular circumstances being set by Dublin City Council.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

18. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts, or other external plant, other than those shown on the drawings hereby approved, unless authorised by a prior grant of planning permission.

Reason: To safeguard the amenities of surrounding occupiers and the visual amenities of the area in general.

19. During the construction phases, the proposed development shall comply with British Standard 5228 ' Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.'

Reason: In order to ensure a satisfactory standard of development, in the interest of residential amenity.

20. 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;
- (d) details of 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.

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 amenities, public health, and safety.

21. The operational noise level of the hotel shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at any point along the boundary of the site between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

22. During the construction and demolition phases dust monitoring shall be carried out on a real time basis and all results made available to the Air Quality Monitoring and Noise Control Unit upon request.

Reason: In order to safeguard the amenities of adjoining premises, residential amenity, and the general surroundings.

23. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority an updated Climate Action and Energy Statement.

Reason: In the interest of the proper planning, sustainable and climate resilient development.

24. Prior to the opening of the hotel, an up-to-date Mobility Management Strategy 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 measures to reduce and regulate the extent of customer/staff parking that may be required, and where such is required adequate measures can be provided off-site in the vicinity third party car parking providers. The mobility strategy shall be prepared and implemented by the operator of the hotel. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

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

25. Prior to the commencement of hotel operations an up-to-date detailed Operational Management Plan shall be submitted to and agreed in writing with the planning authority. This shall include operational hours of the hotel, café/restaurant, lounges, and co-working spaces.

Reason: In the interest of amenities of the area and in the interest of orderly development.

26. Prior to the commencement of development the developer shall submit, to and agree in writing with the planning authority, a plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and for the ongoing operation of these facilities.

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

27. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit or a bond of an insurance company/bank.

(a) to secure the satisfactory maintenance, completion, and any reinstatement of services/infrastructure currently in the charge of Dublin City Council, including roads, open spaces, car parking spaces, public lighting, sewers, and drains.

Or

(b) to secure the satisfactory completion of services until taking in charge by a Management Company or by the Local Authority of roads, footpaths, open spaces, street lighting, sewers and drains to the standard required by Dublin City Council. The form and amount of the security shall be as agreed between the planning authority and the developer, coupled with an agreement empowering the planning authority to apply such security or part thereof. In the event that land to be used as open space is taken in charge, the title of any such land must be transferred to Dublin City Council at the time of taking in charge.

Reason: To achieve a satisfactory completion of the development.

28. The developer shall pay to the planning authority a financial contribution in respect of 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.

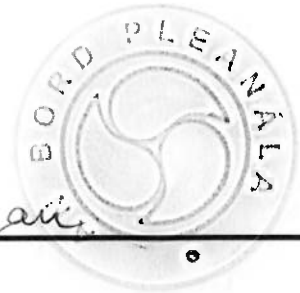
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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 planning 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.

Stewart Logan



Stewart Logan

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

Dated this 26th day of April 2024