

An  
Bord  
Pleanála

**Board Order**  
**ABP-316948-23**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 4856/22**

**Appeal** by Marion White and the People of North King Street care of 187 North King Street, Dublin against the decision made on the 6<sup>th</sup> day of April, 2023 by Dublin City Council to grant subject to conditions a permission to The Peter McVerry Trust care of Fitzgerald Kavanagh and Partners Architects of 1 Mount Street Crescent, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** The demolition of an existing derelict shed, front boundary wall and existing metal gates, and construction of a new four-storey apartment development comprising 12 number units (one number studio, six number one bedroom units, five number two bedroom units) totalling 912 square metres gross floor area. All apartments above ground floor will have balconies, primarily located to rear facade, with setback terrace on Halston Street frontage to two units at upper floor level. A landscaped communal yard is to be located to the rear of the building including an enclosure for 24 number bicycle parking spaces and electrical meters and shed for bin storage. Private gated access is to be provided to the access laneway off Balls' Lane. Proposed works are to include all associated site works including site drainage at numbers 5, 6 and 7 Halston Street, Dublin (626 square metres area) which has laneway access from Balls' Lane.

## **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 policies and objectives of the Dublin City Development Plan 2022-2028, in particular the Z5 zoning objective which seeks to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity, to the brownfield nature of the site and its city centre location, to the nature and scale of the proposed development, and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential development in this location and would not seriously injure the residential or visual amenities of the area or give rise to the creation of a traffic hazard. 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 14<sup>th</sup> day of March 2023, 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 development shall be amended as follows:
  - (a) A solid/opaque screen shall be provided for the northern side of the balconies of proposed apartment units number 6 and number 9. Details shall be agreed with the planning authority prior to the commencement of development.
  - (b) The height of all north and south facing balcony screens shall be 1.7 metres above the floor level of the balcony.

**Reason:** In the interest of residential amenity.

3. 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.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of visual and residential amenities.

5. (a) 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 open spaces and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.
- (b) Unless taken in charge, the developer shall be responsible for the management and maintenance of the setback area at Ball's Lane which is within the site boundary. Prior to commencement of development the applicant shall confirm whether this area is to be taken in charge and shall submit details in relation to the proposed paving and access gate for the written agreement of the planning authority.

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

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

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

7. (a) The developer shall enter into water and waste water connection agreement(s) with Uisce Éireann, prior to commencement of development.
- (b) Uisce Éireann records show an existing combined sewer running through the site. In this regard the applicant must comply with Uisce Éireann's requirements for building close to their infrastructure.

**Reason:** In the interest of public health.

8. 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 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.

9. Proposals for naming, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and apartment numbers, shall be provided in accordance with the agreed scheme. 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.



10. 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.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

11. The demolition and construction of the development shall be managed in accordance with a Demolition and 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

12. 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.

13. 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.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.



14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. 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.

15. The communal cycle storage facility shall be provided prior to the occupation of the development and shall include electronic security and access arrangements/facilities to the satisfaction of the planning authority.

**Reason:** In the interest of sustainable transport and the amenities of the development.

16. No additional development shall take place above the apartment block's 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 residential amenities of property in the vicinity and the visual amenities of the area.

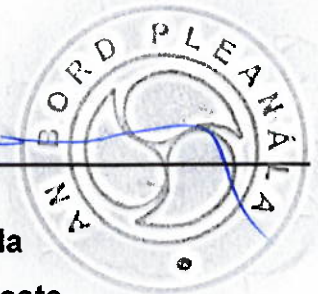
17. (a) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 ' Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.'
- (b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142. Method for rating industrial noise affecting mixed residential and industrial areas.

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

18. 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.

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



Dated this 12<sup>th</sup> day of June 2024