

An
Bord
Pleanála

Board Order
ABP-318518-23

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 3400/23

Appeal by Lullymore Ventures Limited care of John Spain Associates of 39 Fitzwilliam Square, Dublin against the decision made on the 26th day of October, 2023 by Dublin City Council to refuse permission for the proposed development.

Proposed Development: Construction of a part two to part six storey residential and commercial development comprising two commercial units, with a gross floor area (GFA) of 256.4 square metres and 247 square metres (for class 1-shop or class 2-office/professional services or class 8-medical centre or class 11-gym or restaurant/café, including ancillary take-away use), at ground floor level and 68 number apartments from ground to fifth floor level. The 68 number apartments comprise of two number studio units, 32 number one bed units, 31 number two bed units and three number three bed units. Balconies and private terraces are provided for all apartments (to the north-eastern, north-western, south-eastern and south-western elevations of the proposed building). The proposal includes external communal open space areas and terraces at ground and fourth floor level. The proposal includes 23 number car parking spaces, 106

number residential bicycle spaces, 12 number commercial bicycle spaces, 36 number visitor bicycle spaces and one number motorcycle parking space at surface level. Plant rooms, a water storage area, a bin store, and an ESB substation are proposed at ground floor level. The proposal includes vehicular and pedestrian/cyclist access from Donore Avenue, associated improvements to Donore Avenue (which includes alterations to the existing footpaths, which are external to the planning application site boundary and subject to agreement with the planning authority), connections to foul and surface water drainage, signage zones, hard and soft landscaping and all associated and ancillary works at 69D Donore Avenue, Dublin. The site is situated to the south and west of White Swan Business Centre, to the south-east of properties on Elford Terrace and to the north and east of existing residential properties and back land sites on/accessed from Donore Avenue.

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 provisions of the Dublin City Development Plan 2022-2028, including the Z10 'Inner Suburban and Inner City Sustainable Mixed-Use' land use zoning objective for the area and the relevant policies and objectives of the development plan, and also having regard to the scale, form, height, layout and design of the proposed mixed-use development, and to the pattern of development in the area including protected structures and recorded monuments, it is considered that, subject to

compliance with the conditions set out below, the proposed development would not seriously injure the amenities, character or heritage of the area or of property in the vicinity, and would overall promote the consolidation and development of this inner suburban site for mixed use development. In relation to the Abbey Stream which runs through and alongside the site, it is considered that the development provides for a satisfactory relationship with the watercourse and would not significantly limit future opportunities for river rehabilitation, enhancement of the riparian zone, flood risk management, or implementation of flood alleviation schemes, and therefore the proposal aligns with the objectives of Policy SI10 (Managing Development Within and Adjacent to River Corridors) of the development plan. 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 29th day of September 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.

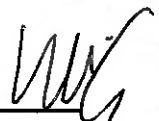
Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
- (a) Within the north-west building elevation (Drawing number DON-HJL-XX-ZZ-DR-A-2000 Rev. P2, submitted to the planning authority on the 29th day of September 2023), all balcony glazing and all communal space glass balustrades orientated toward Elford Terrace and number 71 Donore Avenue shall be glazed with opaque glazing;
 - (b) Within the south-west building elevation (Drawing number DON-HJL-XX-ZZ-DR-A-2001 Rev. P2 submitted to the planning authority on the 29th day of September 2023), windows for apartments number 101, 113, 201, and 216 shall be angled southward away from number 71 Donore Avenue, and all balcony glazing in this elevation shall be finished in opaque glazing;

Revised drawings showing compliance 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 residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The brick colour to be used shall be the same or similar as that used in the adjoining residential area/existing development along Donore Avenue.



Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

4. The two number open spaces located above ground level (as shown on Drawing number 7744-L-2000 Rev. 00 'Landscape Proposal') shall be available and accessible to all residents of the development.

Reason: In the interest of residential amenity.

5. The developer shall comply with the following requirements:
 - (a) Prior to commencement of development, detailed designs for the proposed controlled pedestrian crossing, including proposals for the scheduling of the works to provide such a crossing, shall be submitted for the written agreement of the planning authority;
 - (b) Prior to commencement of development, a drawing detailing areas to be taken in charge and details of the materials proposed in public areas shall be submitted for the written agreement of the planning authority;
 - (c) Prior to commencement of development, the developer shall submit for the written agreement of the planning authority revised swept path analyses for the development which clearly demonstrate sufficient space for vehicles to manoeuvre safely and efficiently within the site when all parking spaces are occupied. Car parking spaces shall be removed if sufficient manoeuvrability is not clearly demonstrated.

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.



Reason: In the interest of road safety, orderly development and sustainable transportation.

6. The developer shall comply with the following requirements of the planning authority:
 - (a) The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services, including in relation to separation of foul and surface water systems, written permission for connection to the public surface water network, petrol interception, and codes of practice. Prior to commencement of development, the developer shall submit details for the disposal of surface water within the site for the written agreement of the planning authority.
 - (b) Prior to commencement of development, the developer shall survey the exact location and levels of the Abbey Stream culvert intersecting the site and shall submit the results of that survey to the planning authority. The developer shall demonstrate that no additional loading will be placed on the culvert and that adequate separation distances from the culvert to the proposed building will be provided to facilitate future access/maintenance of the culvert. The developer shall also provide a wayleave/easement agreement to Dublin City Council for the culvert crossing this site. Prior to commencement of development, the developer shall submit details in relation to these matters for the written agreement of the planning authority.

Reason: In the interest of public health.



7. Prior to commencement of development, the developer shall enter into connection agreements with Uisce Eireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

8. The following shall be complied with:
 - (a) The noise mitigation measures set out in Section 4.4 'Noise Mitigation by Design' of the Inward Noise & Air Quality Assessment report received by the planning authority on the 16th day of March 2023 shall be complied with.
 - (b) During the operational phase of the proposed development, the noise level shall not exceed (a) 55 dB(A) rated sound level between the hours of 0700 to 2300, and (b) 45 dB(A) 15min and 60 dB LAfmax, 15min at all other times, (corrected for a tonal or impulsive component) as measured at the nearest dwelling. 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 residential amenities of property in the vicinity.



9. All mitigation measures in relation to archaeology and cultural heritage as set out in Section 5 of the Archaeological Assessment report prepared by IAC Archaeology and submitted with the planning application on 16th day of March 2023 shall be implemented in full. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any archaeological investigative work/ excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation by record of places, caves, sites, features or other objects of archaeological interest.

10. Proposals for an estate/street name, 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 and street signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.



11. The mitigation measures set out in Section 6 of the 'Ecology Note' (prepared by Enviroguide Consulting) as submitted with the application to the planning authority on the 16th day of March 2023 as part of the application shall be implemented in full.

Reason: To mitigate the loss of biodiversity on the site.

12. 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 details of intended construction practice for the development, including hours of working, noise, vibration, air quality and dust management measures and off-site disposal of construction/demolition waste, as well as:
- (a) Details of on-site car parking facilities for site workers during the course of construction;
 - (b) 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;
 - (c) Measures to obviate queuing of construction traffic on the adjoining road network;
 - (d) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;



- (e) 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;
- (f) Provision of parking for existing properties at during the construction period;
- (g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (h) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (i) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

Reason: In the interest of amenities, public health and safety and environmental protection.

13. 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, 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.



14. All the communal parking areas serving the residential units shall be provided with functional electric vehicle 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 transportation.

15. 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 on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 for the area.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of services and infrastructure currently in the charge of Dublin City Council, including roads, footpaths, watermains, drains, and other services, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. 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.

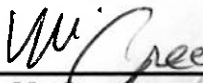
Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.

17. The developer shall pay to the planning authority a financial contribution in lieu of public open space in respect of public open space 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.

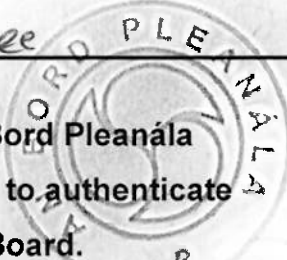
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

18. 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 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.



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



Dated this *01* day of *JANUARY* 2025.