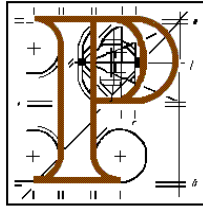


An Bord Pleanála



Inspector's Report

PL29S. 245460

DEVELOPMENT: Supermarket, shop and 24 apartments

ADDRESS: Former Rialto Cinema, 357/359 South Circular Road, Dolphin's Barn, Dublin 8

PLANNING APPLICATION

Planning Authority: Dublin City Council

Planning Authority Reg. No.: 2203/15

Applicant: Marziplant Ltd.

Application Type: Permission

Planning Authority Decision: Grant permission subject to conditions

APPEAL

Appellants:
1. Dolphin Alliance
2. Michael Judd, Sinead Judd & Paddy Keogh

Type of Appeal: 3rd parties vs. grant

Observers: None

DATE OF SITE INSPECTION: 21st December 2015

INSPECTOR: Stephen J. O'Sullivan

1.0 INTRODUCTION

1.1 This report deals with two third party appeals against a decision by Dublin City Council to grant permission to redevelop a former cinema as shops and apartments.

2.0 SITE

2.1 The site lies on a main thoroughfare in the south-western inner city of Dublin. The built environment of the area is characterised by Victorian terraces, interspersed with more recent apartment blocks. The site has a stated area of 3,078m². It is occupied by a vacant cinema dating from the 1930s which was subsequently used for car sales until 2006. It is part of the neighbourhood centre at Dolphin's Barn. A terrace of two storey houses runs east from the site. The three nearest houses remain in residential use, with a mix of residential and commercial uses further along it. The front of the building on the site maintains the building line established by that terrace. The mid-20th century housing scheme at Dolphin House lies to the west and rear the site. It consists of apartment blocks from two to four storeys in height and has its own internal road network with a junction off the South Circular Road. An industrial building adjoins the eastern boundary of the site, whose access is from Dolphin's Barn Road.

3.0 PROPOSAL

3.1 It is proposed to erect a new building on the site that would contain a supermarket, another shop and 24 apartments. Part of the façade of the cinema would be retained. The building would reach a parapet height of 18.82m over the level of the road in front of it. The stated floorspace of the development is 5,837m². It comprises the following elements -

- There would be a shop of 78m² at the front of the site at ground floor level, along with the pedestrian entrances to the supermarket and the apartments above. 56 car parking spaces and bicycle parking would be provided to the rear of the site at this level, with vehicular access from the South Circular Road provided at the western end of the site frontage.
- The supermarket would occupy the first floor of the development over the car park. The net retail area of the supermarket is stated as 1,140m² with an area for alcohol sales of 100m². The building at this level would extend to within 5m of the western boundary of the site, to c.2m of the eastern boundary, and to within 1m of the eastern end of the rear boundary of the site.
- 24 apartments would be provided at the second, third and fourth floor levels, 10 of which would be duplex units. Shared open space of 1,157m² would be provided on a podium at the second floor level. There would be 4no. one-bedroom apartments with floor areas between 55m²

and 71m², and 20no. two-bedroom apartments with floor areas between 80m² and 125m².

Minor revisions were made to the proposed development at further information stage which included setting the building back by 5m from the western boundary of the site and reducing the number of car parking space by 10 to 56 with the omission of a proposed basement.

4.0 POLICY

4.1 The Dublin City Development Plan 2011-2017 applies. The site is zoned under objective Z4 – District Centre, as are the properties to the east of the site. Dolphin House is zoned as a strategic regeneration and development area. Residential and shop uses are permissible in the Z4 zone. Section 17.4 of the plan sets out an indicative plot ratio of 2.0 for this zone while section 17.5 sets out an indicative site coverage of 80%. Section 17.6 requires low rise buildings at this location, which for this area are defined those up to 6 storeys and 19m high for residential use. Section 17.9.1 sets out minimum sizes for apartments in the city. Policy RD24 of the plan is to promote and facilitate the provision of accessible good quality convenience shopping with strong choice and competition within the inner city area. Section 12.4 of the plan states that the urban neighbourhood in Dublin should be big enough to support a range of services and small enough to foster and sense of belonging and community. Policy FC27 is to seek the preservation of the built heritage of the city.

5.0 HISTORY

5.1 No relevant recent planning applications were cited by the parties.

6.0 DECISION

6.1 The planning authority decided to grant permission subject to 23 conditions, none of which significantly altered the proposed development. Condition no. 19 requires a special contribution of €4,000 per apartment to the provision of public open space.

7.0 REPORTS TO THE PLANNING AUTHORITY

7.1 Submissions – Third parties raised concerns with the development similar to those cited in the submitted appeals, including the overshadowing of adjacent properties. Concerns were also expressed about the proposal for another alcohol sales outlet in the area. Tesco queried the accuracy of the alcohol sales study submitted with the application and stated that a full retail impact assessment should be required. The recessed areas on either side of the building should be gated to prevent them being used for anti-social behaviour.

7.2 Drainage Division – No objection subject to conditions

- 7.3 Environmental Health Officer – Plant and deliveries may give rise to noise nuisance.
- 7.4 Roads and Traffic Planning Division – No objection subject to conditions
- 7.5 Conservation Officer – The report on the initial application stated that a method statement for the removal of render from brickwork should be required. The fenestration of the front façade appears fussy and glass balustrades should be replaced with solid construction. The report on the further information stated that these matters should be addressed by conditions.
- 7.6 City Archaeologist – Monitoring should be required by condition.
- 7.7 Planner’s report – The report on the initial application said that development would contain an excessive level of parking. Its scale on the western boundary is excessive and would prejudice the redevelopment of Dolphin House. It was recommended that further information be sought on the issues of scale, retail impact assessment, open space, car parking, noise and construction methods. The subsequent report noted the reduction in the car parking spaces by 10 to 56 and the provision of a setback of 5m from the western boundary with the Dolphin House estate, and the proposal to make a financial contribution in lieu of open space.. A grant of permission was recommended.

8.0 GROUNDS OF APPEAL

- 8.1 The grounds of the appeal submitted by the Dolphin Alliance can be summarised as follows –
- The proposed building would be significantly higher than the existing cinema building and would not have the same set back from the boundary with the Dolphin House estate. It would be a bigger, higher and deeper building than the existing one and would be far higher than the existing three and four storey buildings in the estate. Permission should therefore be refused.
 - There is a lack of clarity as to the treatment of the boundary with the Dolphin House estate. It appears as if the existing wall would be removed and a dwarf wall erected. The applicant should demonstrate that he has the requisite legal interest to demolish the wall as such works would cause noise and nuisance for residents of the estate.
 - The provision of the loading bay on the public road means that its use would interfere with the safety of pedestrians. A truck parked in the bay would also obscure visibility at the entrance to the car park in the development. The loading area is inappropriate and in the wrong location, It must be away from the residential aspect of Dolphin House.

- The podium level and apartments would overlook apartment windows and amenity areas in Dolphin House. The open podium would be above a children's play area. This would cause an unacceptable injury to the amenities and privacy of Dolphin House. Views from the podium should be screened. There should not be views from the shop into play or residential areas in Dolphin House.
- Adequate details have not been submitted of the plant and equipment that would be required for the proposed development. It could be a cause of nuisance due to noise or visual intrusion. The ESB sub-station could also be a source of noise. A 3m high wall would minimise noise emissions.
- Providing access from the curtilage of Dolphin House would be an unacceptable infringement on the residential community there and would fail to take into account the regeneration project.

8.2 The grounds of the appeal submitted by Michael Judd, Sinead Judd and Paddy Keogh can be summarised as follows –

- The proposed development as currently designed would have a negative effect on the residential environment and amenities on the South Circular Road and the neighbourhood centre there including the appellants' houses at Nos. 349, 351 & 353, due to its scale, massing and inappropriate design approach. Permission should be refused. The application does not provide for the protection and respect for the existing amenities and character of the area and does not create a sense of place or establish a local identity due to its segregated use of open space, repetitive apartment type and incongruous appearance. This would contravene the policies set out at section 11.4.1 of the development plan.
- The proposed fails to meet the standards for quality residential and mixed use development set out in the development plan and so would materially contravene its provisions. There would be excessive overlooking from the balconies, podiums and glazed areas of the neighbouring two-storey residential area. It would also unduly overshadow the private open areas and living areas of 349 to 353 South Circular Road in a manner that was not set out in the shadow modelling diagrams. There would be a concentration of single aspect apartments and the development would not provide an appropriate mix of housing types and tenures, contrary to sections 12.4.1 and 12.4.2 of the development plan.
- The proposed building with staggered height of two to five storeys would be incongruous and out of keeping with the prevailing two and three storey character of the area. The massing and volume is not appropriate and an own-door arrangement around a central open space would be

better. The design of a large tiered monoblock with basic façade retention is not justified. It would contravene policy FC27 of the development plan to seek the preservation of the built heritage of the city.

- The development would increase traffic flow and exacerbate congestion at the district centre along the South Circular Road.
- The proposed increase in density would have a negative effect on the existing environment in the area with regard to surface water and drainage. The existing infrastructure may not be designed to cope.
- The proposed development would be an unsustainable development that would not consolidate or promote adjacent existing village centre. It would be more appropriate to develop the site with defined street edges and a staggered approach to perimeter development with a mix of own door housing units and apartments with an appropriate level of retail.

9.0 RESPONSES

9.1 The planning authority's response can be summarised as follows –

- The principle of the development will facilitate the regeneration of the area. It could be set back further from the boundary with Dolphin House if considered appropriate. The car park on the adjoining land within the estate will probably be redeveloped in the future. A robust boundary treatment could be required to provide screening and mitigation against noise from the supermarket and its air handling plant. Conditions on noise levels could be imposed. The glazed rails of the podium could be set further back to reduce overlooking.

9.2 The applicant's response to the appeal from the Dolphin Alliance can be summarised as follows –

- The scale, form, density of the development are appropriate to the site, as indicated by the submitted shadow study. The shadow projections showed no adverse impact from the proposed development. The redevelopment of such a brownfield site is important for the regeneration of the area. The orientation of the proposed development and the separation distance it achieves are adequate to protect the amenities of neighbouring properties. The layout of the Dolphin Estate is not likely to change when it is regenerated and the proposed development will not interfere with that regeneration. Having a supermarket at the first floor level has provided successful at East Wall and Terenure and allows a simpler access arrangement for parking without the need for a basement and ramp which would render the development unviable.

- The existing boundary wall with the Dolphin House Estate is in poor repair and is unsightly. The applicant has consulted with the council and is satisfied that it has the legal interest in land to remove it. The proposed decorative railing would be more attractive. The elevations of the proposed building would also be better than the back and sides of the existing building. The development would therefore improve the environment at Dolphin House by providing a more open and attractive aspect. The proposed building would be set back at least 25.8m from opposing apartment blocks. The only space that is overlooked is the public access and car parking. The separation between windows for apartments facing the north eastern boundary would be at least 30m. The windows from the shop would be high level and would not cause overlooking.
- A proper and safe loading bay and access will be provided at the front of the proposed development. Loading for the supermarket would generally be once a day for 25-30 minutes, usually at off peak times which would lessen the impact of the loading bay. There is no requirement to provide vehicular access to Dolphin House estate.
- A plant room would be provided at the southern corner of the site. The air handling and cooling equipment can be restricted in their output of noise, as provided in condition 11(c) of the planning authority's decision.

9.3 The applicant's response to the appeal from Michael Judd, Sinead Judd and Paddy Keogh can be summarised as follows –

- The redevelopment of a brownfield urban site is an appropriate and sustainable use of the scarce land resource. The proposed scale, height and massing of the development are appropriate and it will not negatively affect the amenities of Nos 349, 351 and 353 South Circular Road. In fact it would improve the aspect and amenity of those properties. The proposed heights are within those envisaged in the city development plan. The proposed scheme would contain only two single aspect apartments both of which would face south. It is not overambitious and is deliverable.
- The document submitted by the applicant's engineers addresses all issues in relation to traffic management and numbers
- The proposed urban design solution includes the retention of part of the façade and is an ordered, mannered and reasonable response to the site. It would improve the existing blank frontages on the north-west and south-east elevations. The introduction of viable retail space will improve the vitality of the neighbourhood centre and would provide frontage and activity on the street.

10.0 ASSESSMENT

The planning issues arising from the proposed development can be addressed under the following headings –

- Policy and the principle of development
- Impact on the character and amenities of the area
- The amenity to afforded the residents of the development
- Access and parking
- Other issues

Policy and the principle of development

10.1 The proposed retail and residential uses are both permissible under the Z4 district centre zoning that applies to the site.

10.2 The development plan envisages the location of a wide range of commercial services in the district centres that are zoned Z4, significantly more than would be contained in the neighbourhood centres zoned Z3. There is also a specific policy to promote the provision of convenience shopping in the inner city area at RD24. The supermarket and smaller shop proposed in this application are supported by these provisions of the development plan. Their location in the district centre at Dolphin's Barn would reinforce the established retail hierarchy in the city in the manner sought by national and local policy. It is inconceivable that a supermarket of less than 1,200m² and another shop of less than 100m² would have a negative impact on the retail offer and function of the city centre. The possibility that they might attract business from other shops that are located in centres with a similar or lower position in the retail hierarchy has no implications for the common good. It is not a planning issue, but is simply a matter for competition in the marketplace. The sales area for alcohol in the supermarket is delineated and restricted in size in the manner required by section 17.29 of the development plan.

10.3 The development plan indicates that a plot ratio of 2.0 and site coverage of 80% would be appropriate in the Z4 zone. The plot ratio of the proposed development would be 1.9, while the site coverage would approach 100%. These levels are similar to the guidance provided in the development plan. The area is not designated for the provision of high buildings in the plan, and therefore only low rise buildings would be appropriate for the site. The height of the proposed building, at 18.82m, would render it such a low rise building according to the definitions set out at section 17.6 of the plan.

10.4 The nature and scale of the proposed development therefore complies with the provisions of the development plan that apply to the site. It is therefore acceptable in principle. However consideration also needs to be given to the likely specific impacts of this particular proposed development before a determination is made as to whether it complies with the proper planning and sustainable development of the area. This is addressed below

Impact on the character and amenities of the area

- 10.5 The proposed building would be significantly higher than most of those in its vicinity, including the two and three storey buildings that front onto the South Circular Road. It would also have a greater extent than the existing structure on the site. Nevertheless, several of its design features would help to integrate it properly into the existing built environment. It would maintain the established building line along the South Circular Road. It would provide active ground floor frontage in a district centre. The extensive use of brick would reflect the Victorian housing in the surrounding area. The maintenance and refurbishment of some of the details from the former cinema would be reminiscent of a particular period of the area's history. It would also provide a rationale for the setback of the higher residential floors of the scheme from the front elevation. This in turn would help the building to sit more easily into the streetscape along the South Circular Road, although more so in views from the front than from the side.
- 10.6 However the most salient feature of the development in this regard is that it would regenerate a large and prominent site whose current vacancy and physical condition seriously detracts from the character of the area. It would also accommodate residential and commercial uses that are likely to be viable over the long term, thus reducing the risk that the site might revert to a similarly undesirable state in the future.
- 10.7 The revised design submitted to the planning authority as further information would have the new building set back 5m from the western boundary of the site with Dolphin House, with the higher residential floors set back by more than 10m. This separation would be adequate to ensure that the proposed development would not unduly overshadow, overbear or overlook the apartments opposite to an extent that would seriously injure their residential amenity. The proposed development would introduce a 9m wall onto part of the southern boundary of the site. However this wall would be finished with brick and would not cast a shadow outside the site. The apartments opposite would be 30m away from the wall. The development would not, therefore, unduly overbear, overlook or overshadow those apartments either. The applicant has clarified that the remainder of the boundary with the Dolphin House estate would be marked by a decorative railing over a plinth wall, which would be appropriate. The scheme would also remove the existing vacant building on the site and a blank concrete wall which detract from the outlook available from this part of the Dolphin House estate. Given the small size and peripheral location of the site relative to that estate, the proposed development would be unlikely to constrain the estate's redevelopment in any significant way. The proposed location of the plant room and sub-station in the south-eastern corner of the site beside the neighbouring industrial facility is rational, in that it achieves a significant separation from the nearest existing and proposed

apartments. If properly operated, they are unlikely to cause a nuisance for neighbouring residents.

10.8 The proposed development would, perforce, have a greater impact on the houses at Nos. 349, 351 and 353 South Circular Road. It would introduce a high, blank wall to the southwest of the houses, above which would be an area of open space. This would have a perceptible effect on the outlook, privacy and light available at the rear of those houses. However, given the orientation of the proposed development relative to the curtilages of those houses and their location in an inner urban area, it is not considered that this effect would seriously injure the amenities of those houses to an extent that would justify refusing permission or substantially amending the proposed development. The residents of the houses would also benefit specifically from the removal of the existing building whose side and rear elevations are unsightly, as well as the more general benefit that would accrue to the area from the regeneration of the appeal site.

10.9 The board is therefore advised that the proposed development would have a significant positive impact on the character of the area and would not seriously injure its amenities or those of property in the vicinity of the site.

The amenity afforded to the residents of the development

10.10 The amount of internal accommodation provided in each of the proposed apartments exceeds the standards set in the city development plan and in the *Design Standards for New Apartments* issued by the minister in December 2015. At 2.7m, the floor to ceiling height exceeds the minimum requirement in the guidelines. Each apartment includes small but useable areas for private open space and storage. The two single aspect apartments face generally south. The provision of c1,200m² area of shared open space at podium level is as much as might reasonably be required for the redevelopment of a brownfield site for mixed uses in the inner city. It is therefore considered that the proposed development would provide an acceptable standard of amenity for its residents.

10.11 It is noted that the planning authority levied a special contribution of €4,000 per apartment towards public open space. Legislation requires special contributions under section 48(2)(c) to be spent on specific projects within a specific period. The planning authority has not yet specified any such project, so it might be preferable if such a condition did not determine the actual level of a contribution towards open space at this stage.

Parking and access

10.12 The site is in an area that has a wide range of commercial and social services and employment opportunities within walking distance. It is well served by bus routes. Conversely there is a significant residential population within walking

distance of it. In this context the amount of car parking proposed to serve the proposed shops and apartments is adequate. The revisions to parking made at further information stage resulted in the proposed bicycle parking being poorly located and in the open air. However this issue can be addressed by condition. It is noted that the existing discount foodstore near the site on Cork Street provides a small number of bicycle spaces in its entrance lobby. This arrangement is successful and could be usefully replicated in the proposed development. The proposed access to the car park is in the same position as the existing vehicular access to the site. Its use to serve the proposed development would not give rise to a traffic hazard or undue obstruction of road users. The specifications used by the applicant's engineers to design the access to the car park failed to have regard to the applicable standards set out in the *Design Manual for Urban Roads and Streets* issued by the minister 2013. However the resulting deficiencies can be properly addressed by condition. The use of a loading bay on a main public road within a designated district centre to facilitate deliveries is an acceptable arrangement and one that is already used to serve the other shops at Dolphin's Barn. The use of the loading bay proposed in this case would not cause serious hazards for traffic or pedestrians. It would not give rise to an undue nuisance for residents, although the specific design submitted by the applicant's engineers would have to be revisited to apply the policies and standards set out in the applicable design manual. This can be required by condition. Subject to such conditions, the parking and access arrangements for the proposed development are acceptable.

Other issues

- 10.13 There is no indication that the site has a history of flooding. It is already entirely covered by impermeable surface materials and the development would not place any additional loads on the surface water drainage system in the area. the additional demand for foul drainage and water supply arising from the development would be marginal in such an urban context and would not be likely to have implications for the proper planning and sustainable development of the area.
- 10.14 The proposed redevelopment of a brownfield site in an urban area is unlikely to have any significant effect on any Natura 2000 site and an appropriate assessment of the development is not required.

11.0 CONCLUSION

- 11.1 The proposed development would be in keeping with the Z4 district centre zoning that applies to the site, both with regard to the proposed uses and the scale of the proposed building. It would improve the appearance of a prominent site and the vitality of the district centre in which it lies. It would make a positive contribution to the character of the area. It would provide an acceptable standard of amenity for its occupants without seriously injuring the

amenities of property in its vicinity. It would not give rise to traffic hazard or the obstruction of road users. It would therefore be in keeping with the proper planning and sustainable development of the area.

12.0 RECOMMENDATION

12.1 I recommend that permission be granted subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the zoning of the site as part of a district centre under objective Z4 of the Dublin City Development Plan 2011-2017, and to the pattern of development in the area, it is considered that, subject to compliance with the conditions below, the proposed development would make a positive contribution to the character of the area, would provide an acceptable level of amenity for its residents, would not seriously injure the amenities of property in the vicinity and would be acceptable in terms of traffic safety and the convenience of road users. The proposed development would therefore be in keeping 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 submitted as further information on the 17th day of July, 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) The vehicular access and loading bay serving the authorised development shall be designed in accordance with the standards set out in the *Design Manual for Urban Roads and Streets* issued by the minister in March 2013. In particular pedestrian priority shall be maintained along the South Circular Road across the entrance to the site by a courtesy crossing with appropriate vertical and horizontal deflection in line with the existing footpath, and the loading bay shall not reduce the width of the footpath to less than 2.7m measured both radially from the north-western corner of the property at No. 353 and perpendicular to the line of the road.
 - (b) The access points to the authorised development from the South Circular Road shall be provided with gates which shall be erected in alignment with the building line on both sides of the authorised building to avoid creating unsupervised or secluded areas along the public road. The gates shall open inwards into the site and shall normally be closed when the foodstore is closed.

- (c) A minimum of 24 bicycle parking spaces for the residents of the authorised apartments shall be provided in a covered, secure and lockable facility at ground floor level within 30m of the lift serving the apartments. 6 bicycle spaces shall also be provided within the entrance lobby for the authorised discount foodstore. The consequent rearrangement of the car park shall not reduce the number of car parking spaces for the apartments to less than 24 or the number of bicycle parking spaces for the authorised shops to less than 20.

Revised drawings showing compliance with these requirements, including full details of the gates and bicycle parking facilities, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: For the safety and convenience of road users including pedestrians and cyclists

3. Prior to the commencement of development the developer shall submit for the written agreement of the planning authority details, including samples as appropriate, of the following elements–
- Surface and boundary treatments throughout the authorised development, including the wall and railings on the western and southern boundaries of the site and the landscaping of the communal open space
 - The materials, finishes and colours of the authorised building including a method statement for the removal of render from the existing façade.
 - All signage and external lighting
 - The means of handling any fumes or odours arising within the authorised development.

Reason: To protect the amenities of the area

4. Water supply and 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.

5. 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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the authorised development shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste in the interest of protecting the environment.

6. 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 public 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.

7. 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 residential amenities of property in the vicinity and the visual amenities of the area.

8. The plant and machinery installed to serve the authorised development and the deliveries to the authorised shops shall not give rise to a noise level above 55 dB(A) rated sound level (i.e. 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 or 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 residential amenities of property in the vicinity of the site.

9. 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 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

- 10 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 prior to the commencement of any site operation (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 authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

11. 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 social and affordable housing in accordance with the requirements of section 96 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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.

12. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the provision of public open space that would benefit the residents of the authorised development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

13. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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 J. O'Sullivan
24th December 2015