



Development

Protected Structure: Removal of the existing non-original roof and mezzanine upper floor of the building and the construction of a replacement 4th storey and addition of 5 no. storeys of office accommodation in a new steel frame glazed extension.

Location

Columbia Mills, 14-15 Sir John Rogerson's Quay, Dublin 2, D02 E409

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

2772/20

Applicant(s)

MKN Property Group

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

First Party

Appellant(s)

MKN Property Group

Date of Site Inspection

17th May 2021

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site is located on the southern side of the River Liffey to the east of the city centre fronting Sir John Rogerson's Quay. The appeal site is occupied by a three-storey former warehouse structure (Columbia Mills), which is on the record of protected structures. The existing structure is currently vacant. To the east is a six-storey structure in office use and to the west is a part five, part six-storey structure also in residential use (apartments). To the south is an apartment development, The Windmill with access from Windmill Lane and Lime Street.

2.0 Proposed Development

- 2.1. Permission is sought for development which comprises the removal of the existing non-original roof and mezzanine upper floor of the existing building and the construction of a replacement 4th storey and addition of 5 no. storeys of office accommodation in a new steel frame glazed extension.

The development will consist of:

1. Removal of the roof and upper mezzanine floor (c. 79sqm) of the existing building (a Protected) with total existing floor area of c. 1,027sqm.
2. Replacement 4th storey and addition of 5 no. storeys to provide a 9 no. storey (over basement) office development comprising a total of c. 2,390sqm of floor area.
3. External terraces will be provided at ground, setback fourth and ninth storey levels, providing 92sqm of amenity with upper terraces secured gazed balustrades.
4. Works to the protected structure including removal of the existing non-original roof, mezzanine and external modern stairs to the rear façade, non-original internal floor levels, staircases and part boundary walls, to facilitate the core structure of the proposed development.
5. Conservations and preservation work and treatment of existing elevations, internal structure and floors, with improvement works to windows and provision of a secondary entrance at ground floor level to Site John Rogerson's Quay.
6. A total of 21.7sqm of signage at north (13.5sqm) east (4.1sqm) and west (4.1sqm) elevation.

7. Provisions of 27 no. bicycle parking spaces, charging facilities and WCs at basement.

8. All associated plant, ancillary infrastructure, green roof and site works.

2.2. The proposal was revised in response to further information with the top level omitted to provide for an 8 storey structure. In granting permission a further level was omitted providing for a 7 storey structure with amendments also in terms of setback of the façade.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 15 conditions.

Condition no. 4:

Amendments including omission of the seventh level, setback at 3rd floor level on the northern façade increased 2m to 3m, setback at 4th, 5th and 6th floors shall be setback 1m from the facade of the protected structures on the northern elevation, retention of the nineteenth century eastern wall.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (27/07/20): Further information required included a revised floor, visual impact assessment, revisions required by the Conservation Officer, mitigation measures in relation to daylight and sunlight for adjoining residents, proposals to deal with overlooking issues in relation to the adjoining residential block, provision of cycle parking, clarification regarding a physical link between no. 14 and 15 and clarification regarding a fire escape.

Planning report 18/12/20): The proposal was considered to be in accordance with the proper planning and sustainable development of the area subject to a number of amendments including omission of the 7th level and increased setbacks. A grant of permission was recommended based on the conditions outlined above.

3.2.2. Other Technical Reports

Drainage Division (24/06/20): Further information required including a revised Flood Impact Assessment, justification test required.

Conservation Officer (15/07/20) Further information required including revise the proposal to retain all historic internal elements of the basement, revised roof design following historic roof profile, provision of a setback between the historic façade and new building, reduced height.

Transportation Planning (15/07/20): No objection subject to conditions.

Drainage Division (30/11/20) No objection.

Transportation Planning (07/12/20): No objection subject to conditions.

3.3. Prescribed Bodies

TII (22/06/20): Development subject to a Section 49 Supplementary contribution (Luas C1).

3.4. Third Party Observations

3.4.1 A submission was received from ...

The Windmill Management Company

Eddy Carroll, 106 The Windmill, Sir John Rogerson's Quay, Dublin 2.

Core, 16 Sir John Rogerson's Quay.

The issues raised were as follows...

- Overbearing impact, impact on light, construction impact, residential amenity.
- Issue concerning existing interconnection between 14/15 and no. 16 concerning fire escape.

4.0 Planning History

4.1 No planning history on the site.

5.0 Policy Context

5.1 National Planning Framework -Project Ireland 2040

5.1.1. The National Planning Framework which was published in 2018 is a strategic plan to guide development and investment out to 2040. It is envisaged that the population of the country will increase by up to 1 million by that date and the strategy seeks to plan for the demands that growth will place on the environment and the social and economic fabric of the country. It sets out 10 goals, referred to as National Strategic Outcomes.

5.1.2. Under National Strategic Outcome 1 (Compact Growth), the focus is on pursuing a compact growth policy at national, regional and local level. With regard to Dublin it states; 'Dublin needs to accommodate a greater proportion of the growth it generates within its metropolitan boundaries.... At a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.

National Policy Objective 11 In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 13 In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that

enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

5.1.3. The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018) build on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. It is acknowledged that increasing building heights has a critical role to play in addressing the delivery of more compact growth in urban areas, particularly cities and large towns. Specific Planning Policy Requirement (SPPR) 1 states In accordance with Government policy to support increased building height and density in locations with good transport accessibility, particularly town/city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

5.2. Development Plan

The operative development plan is the Dublin City Development Plan 2016-2022. The site is located in an area zoned Z5: City Centre, with an objective 'To consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity'. The primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night (Section 14.8.5).

Permissible uses include office, hotel, and restaurants. The Z5 zoned area is identified as the key employment location within the city (Section 2.2.4).

Core Strategy - It is an overarching aim 'to consolidate and enhance the inner city in order to strengthen its crucial role at the heart of the capital city and the city region'.

Shape and Structure of the City -In terms of the Shape and Structure of the City the plan (4.5.1.1.) sets out a number of policies;

SC7: – To protect and enhance important views and view corridors into, out of and within the city and to protect existing landmarks and their prominence. Fig 4 outlines Key Views and Prospects (Indicative).

SC16: - To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA).

SC17: - To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, having regard to the criteria and principles set out in Chapter 15 (Guiding Principles) and Chapter 16 (development standards). In particular, all new proposals must demonstrate sensitivity to the historic city centre, the River Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas, open recreation areas and civic spaces of local and citywide importance.

Section 4.5.41 sets out Dublin City Council's approach to taller buildings. It is policy to provide for taller buildings in limited locations identified in the Building Height in Dublin map. Georges Quay is identified as allocation where a tall building could be located (above 50m). City Economy and Enterprise – recognises that Dublin must develop with sufficient critical mass in order to compete at an international level and fulfil its role as the key economic driver of growth for the Greater Dublin region and the country as a whole.

Relevant policies include CEE5 and CEE11, which recognise the need for high quality and dense development to drive productivity and innovation; the supply of

commercial space as a means of increasing choice and competitiveness and the redevelopment of obsolete office stock in the city to consolidate employment.

Development Standards - Section 16.7.2 of the plan sets out Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development. It also sets out the Assessment Criteria for Higher Buildings. The requirements for Infill Development are set out in Section 16.2.2.2, where it is noted that it is particularly important that proposed development respect and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.

Built Heritage and Culture - The policies in relation to Protected Structures are set out in Section 11.1.5.1. The policies in relation to Conservation Areas are set out in Section 11.1.5.4. These policies seek to protect the structures of special interest which are included in the Record of Protected Structures (Volume 4 of the Plan) and the special character of Conservation Areas. Relevant policies include the following;

CHC1 - Preservation of the built heritage of the city.

CHC2 – Protection of the special interest of protected structures.

CHC4 – Protection of special interest and character of Conservation Areas. Table

16.1 and Table 16.2 set out the car and cycle parking standards for various uses.

5.3 Natural Heritage Designations

5.3.1 None in the vicinity.

5.4 EIA Screening

5.4.1 Having regard to nature and scale of the development, which is renovation and extension of an existing protected structure, the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by John Spain Associates on behalf of MKN Property Group. The grounds of appeal are as follows...

- The appeal is against the terms of condition no. 4, which reduces the height of the development by one floor to a seven storey structure. It is considered that the design and scale of the proposal is appropriate and the applicant already reduced the proposal by one floor to eight-storeys in response to further information. It was considered that the applicants' response to further information was sufficient to deal with the issues raised.
- The reduction in height by a storey (Condition 4(a)) is considered inappropriate as there is justification for the height proposed based on its central location and proximity to public transport and the Urban Development and Building height Guidelines 2018. The appellant notes permission granted at Tara Street and Apollo House at much higher heights. The visual impact of the proposal is also identified as contributing positively at this location and its appropriate visual impact is demonstrated by the Visual Impact Assessment submitted. It is considered reasonable to assume that development of higher scale may be provided for in the surrounding area in the future.
- The proposal would have a positive visual impact and uses an underutilised site including reuse of a protected structure and providing active uses at this location. The proposal is consistent with the Urban Development and Building Height Guidelines 2018.
- The applicants' response to further information and the removal of one floor was considered an appropriate response and there is no justification for the omission of another floor. And such would lead to compromised design. The appellants list relevant precedents where structures of similar or greater height both elsewhere and in the surrounding area.
- The omission of an additional floor would have implications for the commercial viability of the proposed development as it includes refurbishment of a

protected structure and the nature of the construction needed on such a restricted site in a built up area. The loss of the quantum of floor space proposed would impact commercial viability.

- In relation to condition 4b and 4c it is considered that the design as proposed in response to further information provides for appropriate and logical setbacks and design and the amendment required by the condition are inappropriate and unjustified. The appellant refers to examples in the Docklands Area where extensions are level or protrude forward of the building line of protected structures. There is clear precedence for extensions above protected structures with no or minimal setbacks.
- In relation to Condition 4d the demolition of existing eastern wall is necessary to facilitate the core structure of the building and its removal is essential to the viable construction of the building. An Architectural report by HJL elaborates on this issue.

6.2. Planning Authority Response

6.2.1 No response.

7.0 Assessment

7.1. At the outset, I wish to point out that following consideration of the documentation on the appeal file and the site location and context, I am satisfied consideration of the proposal on a de novo basis, (that is as if the application had been made to the Board in the first instance), is unwarranted and that it is appropriate to determine the appeal in accordance with the provisions of Section 139 of the Planning and Development Act, 2000 as amended. Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Condition no. 4

7.2. Condition no. 4:

7.2.1 The appeal concerns the application of amendments specified in condition no. 4. There are four parts to the condition, which are as follows...

4(a): Omission of the seventh level resulting in a seven-storey building (three-storeys of the protected structure and four floors above).

4(b): The setback at 3rd floor level on the northern façade shall be increased from 2 to 3m.

4(c): The setback at 4th, 5th and 6th floors shall be set back 1m from the façade of the protected structure on the northern elevation.

4(d): The nineteenth century eastern wall (which is proposed for demolition) shall be retained and incorporated into the proposed development.

7.2.2 The original proposal was for a building of nine-storeys with the top level setback (ridge height 37.615m). The proposal was revised by way of further information to omit one level to make the development an eight-storey building (ridge height 34.015m) with condition 4(a) requiring omission of one more level to provide for a seven-storey structure (estimate that ridge height would be just over 30m). The Planning Authority assessment identified the reason for the reduction being the fact that the proposal is a sensitive site containing one of the last warehouse structures and that despite permissions granted and existing structures in the area taller than that proposed, the reduced height is appropriate in this regard.

7.2.3 The nature of the scheme is retention and renovation of the existing protected structure on site, which is a warehouse structure and a modern extension above that is highly glazed and provides a clear distinction between the new and the old with the roof profile of the protected structure still clearly legible. I would question whether the removal of an additional floor would make a difference in the context of the character of the protected structure on site or would represent a significant improvement in the overall design. The appeal site is in an area where there are taller structures of more significant bulk. The applicant already reduced the proposal by one floor in response to further information. I am satisfied that the design provides for retention of the protected structure in such a manner that its character is sufficiently retained and it would be clearly legible at this location. I would be of the view that omission of one floor would not transform the development in terms of

being a structure of more appropriate scale and sensitivity to the character of the protected structure than proposed by the plans submitted by way of further information. I am satisfied that the information submitted including photomontages of the proposal for an eight-storey structure demonstrate that the overall scale and design of the proposal is satisfactory in the context of the visual amenities of the area, which include structures of similar and height and above. I am satisfied that the applicant had demonstrated that the revised proposal submitted as part of further information was satisfactory in the context of adjoining amenities with daylight and sunlight assessment submitted and the Planning Authority satisfied that the proposal had adequate regard to adjoining amenity. I am satisfied that the design allows for a clear distinction and legibility of the scale and character of the protected structure and that the proposal would accord with Development Plan policy to make use of zoned city centre lands at an appropriate scale, while having adequate regard to adjoining amenities and architectural heritage as well as being consistent with national policy in the form of the NPF and Building Heights guidelines. I would recommend that condition 4(a) be omitted.

7.2.4 Condition no. 4(b) requires the set back at 3rd floor level on the northern façade shall be increased from 2 to 3m. Condition 4(c) requires a set back at 4th, 5th and 6th floors shall be set back 1m from the façade of the protected structure on the northern elevation. The reasoning for these amendment again relates to the fact there is an existing protected structure/architectural heritage reasons. The applicant/appellant has noted a number examples similar in nature in the Docklands Area, in which no setbacks between old and new structures extended in similar manner were required. The proposal submitted by way of further information provides for a 1m setback at 3rd floor level and a 500mm setback on the levels above from the northern elevation of the existing structure on site.

7.2.5 As with condition 4(a), I would question whether the impact of the change proposed by way of 4(b) and (c) is firstly significant in terms of improving the design of the proposal or necessary. I would be of the view that the design as proposed has adequate regard to the character and status of the existing structure on site as a

protected structure and there is a clear distinction between the old and the new in terms of material and visual character and such has a sufficient regard to the status and integrity of the protected structure. I am also of the view that photomontages submitted with the proposal as part of visual impact assessment illustrate that the proposal as submitted by way of further information has sufficient regard to the visual amenities of the area. I am off the view that this amendment is not necessary and although is a minor amendment does have a significant impact on the floor plan of the proposal and if not necessary in the context of the proper planning and sustainable development of the area, should not be applied. I would recommend that Condition 4(b) and (c) be omitted.

7.2.6 Condition 4(d) requires that the nineteenth century eastern wall (which is proposed for demolition). This condition relates to existing fabric at basement level. The proposal is to retain existing walls at basement level to the north, south and west, however demolish the eastern wall, which is dated as being a nineteenth century. The Conservation Officer raises concerns regarding the loss of historic fabric and indicated that the justification for such has not been demonstrated. The applicant/appellant indicates that demolition of the wall is necessary to implement the development due to the location of the core structure adjacent the wall (lift core and stairs). The appellants included a response from the architects of the scheme outlining the necessity for demolition of the wall and the importance of the core structure to facilitate the construction of the development. The appeal submission also notes that the core structure/works adjacent the wall in question will cover up such.

7.2.7 The proposal entails retention, renovation, alteration and extension of an existing protected structure on site. The proposal entails retention of a significant level of historic fabric and although it entails extension upwards, the character and legibility of the existing protected structure is retained. I would be off the view that the applicant/appellants justification for demolition of the basement wall to the east is a reasonable and justifiable explanation on the basis of providing for construction of new development that also entails adequate regard to the status of the protected

structure. In the main Dublin City Council and the Conservation Officer had no objections to the proposal and the overall design. I am of the view that application of condition 4(d) is unnecessary and that sufficient justification is provided for the level of intervention proposed. I would recommend that condition 4(d) is also omitted.

8.0 Decision

Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to OMIT Condition No 4, and the reasons therefor.

9.0 Reasons and Considerations

(a) Having regard to the design and scale of the proposal as per the plans submitted on the 24th day of November 2020, the proposed development has adequate regard to the visual amenities of the area, the character and status of the existing protected structure on site and provides for sufficient retention of historic fabric. The proposed development would be in accordance with Development Plan Policy, national policy including the Urban Development and Building Height - Guidelines for Planning Authorities (December 2018) and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

21st May 2021