

An
Bord
Pleanála

Board Direction
BD-015522-24
ABP-315358-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 22/02/2024.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to:

- a. The site's location on land primarily zoned 'Z8' where Cultural and Educational use is a 'permissible use' and 'Z9' where Open space is a permissible use, and cultural/recreational buildings and uses are open for consideration.
- c. The policies and objectives in the Dublin City Development Plan 2022-2028
- d. Nature, scale and design of the proposed development;
- e. Pattern of existing development in the area;
- f. The Architectural Heritage Protection Guidelines for Planning Authorities 2011.
- j. The provisions of Section 57(10) of the Planning and Development Act 2000 (as amended)
- k. Submissions received.

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the Dublin City Development Plan

2022-2028 and would not seriously injure the amenities of the area, would not detract from the character and setting of the Protected Structure or the Architectural Conservation Area, would be acceptable in terms of design and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board agreed with the screening assessment and conclusion in the Inspector's report, that on the basis of the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening report that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment was not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents and drawings submitted by the applicant identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2022;

- the location of the proposed development on lands zoned within the Dublin City Development Plan 2022-2028 Z8: Georgian Conservation Area – *'To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective'* where Cultural and educational buildings and uses are permissible and Z9 Amenity/Open Space Lands/Green Network with a zoning objective which seeks *'To preserve, provide and improve recreational amenity and open space and green networks'*. Open space is a permissible use, and cultural/recreational buildings and uses are open for consideration within the Z9 zone;
- the results of the Strategic Environmental Assessment of the Development Plan;
- the nature of the existing site and the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as revised;
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised, and;
- the features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the project the Conservation Assessment and the Engineering Services Report,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 29th September 2022 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity

2. With regard to the Real Tennis Building, prior to the commencement of development, the developer shall:
 - a) Engage the input of a Real Tennis specialist in the Design Team to ensure that all of the key features are designed in accordance with all relevant Real Tennis Guidelines, and that no improvement works including the design of the Penthouses, wall and floor surfaces, services and additional or widened openings will interfere with the use of the Real Tennis Court for Real Tennis.
 - b) Submit detailed design proposals for demountable penthouse galleries and any other essential features required for playing Real Tennis matches. The demountable structures shall be robust and durable and designed in a manner which allow for efficient on-site assembly, dismantling and storage.
 - c) Submit a detailed strategy for temporary exhibitions/other uses to include protection measures for the floors and walls, and details of any demountable panels within the penthouses to facilitate additional access into the Real Tennis Court play area.
 - d) Submit details of information boards providing a brief history and rules of the game of real tennis and its association with the Real Tennis Building including its original purpose to be displayed in the building in prominent locations.

Reason: In the interest of the protection of the architectural, cultural and social heritage of the area.

3. The following requirements of Dublin City Council's Conservation Department shall be complied with:

a) A conservation expert with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works to the building and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

b) All works to the protected structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of the Environment, Heritage and Local Government. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

c) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.

d) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.

e) The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structure and the historic area.

f) The developer shall facilitate a site visit(s) by the Conservation Officer to inspect the works and samples/exemplars at key stages, or to discuss any previously undiscovered items that come to light during the stripping out works.

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

4. Prior to the commencement of development, the developer shall submit the following information for the written agreement of the planning authority:

New Building:

New Roof Louvres:

- Submit revised 3D visualisations to indicate the additional louvre structures and revised drawings that either omit all roof plant and acoustic louvred screens or present a rationalised and more sensitive approach to the design.

New louvres at roof level on the Butler Building:

- Clarify the purpose and key dimensions of the louvres indicated above parapet level on the north elevation of the Butler Building and clarify whether these will be visible from the new access connection at ground level.

Proposed bin store (10m long x 3m wide x 3m high):

- Submit revised drawings providing an alternative location for the proposed bin store to avoid the visual impact on the Protected Structure, or alternatively lowered in height (Ref. drawings 026 and 111).

Revised railing arrangement (omissions) - west elevation:

- Clarify the amendments to the railing arrangement between the piloti on the west elevation of the new building, and submit 1:20 plans, sections and elevations of a typical bay, indicating the fixing position and meeting rails.

Samples:

- Submit samples of the proposed new stone cladding materials to ensure a light-coloured warm hue as illustrated on the rendered drawings.

Landscaping:

- Submit a revised proposal for the retention of the Count John McCormack statue having regard to the context of the new landscaping arrangement.
- Submit clear comparative drawings (plans, sections, elevations) of the entirety of the northwest corner of the Iveagh Gardens that is to be altered to accommodate new gravel and stone ramped paths, planted beds, and steps, indicating how these areas will be retained by walls/banked earth/other means and clearly indicating the trees that will be removed and the protection of roots, to indicate the above-ground beams / foundation details for the new building that will avoid damage to tree roots.

Demolition methodologies:

- Ensure that the stone boundary wall, stone walls and slate roofs to the workshop, red and yellow brick walls to the Real Tennis Building (south elevation) are carefully dismantled so that the salvaged stones, bricks and slates can be reused preferably within the site, for conservation repairs and landscaping works.
- Submit proposals to highlight the original internal partition locations to facilitate an understanding of the historic floor plan.

Butler Building:

Roof Lanterns:

- Submit 1:20 section drawing(s) of the lantern types, including details of AOVs and key timber profiles and lead details, endeavouring to retain as much of the historic timbers and glass as possible where it is sound, and provide a record as-built drawing indicating historic and new materials.

Floor finishes:

- Submit a set of floor plans indicating existing all historic floor finishes (tiles, stone, timber), defects and proposed repairs where required, and proposed floor finishes.

Conservation Repairs:

- Repairs to all historic fabric must be carried out to best conservation practice and agreed with the design team conservation architect and conservation officer prior to commencement of the works.

Ceiling and Wall Finishes:

- Carry out paint analysis in key locations to determine historic decorative finishes and provide a set of drawings indicating proposed colours for the final decorative

scheme (avoiding the colour choices indicated in AHIA Image 4.11 Corridor Ceilings).

Strengthening of concrete downstands and floor slabs:

- Submit reflected ceiling plans (RCPs) clearly indicating all existing decorative features and where strengthening interventions are required, accompanied by a 1:10 section detail illustrating the proposed approach, avoiding the loss of decorative mouldings and cornices. All proposed losses of decorative features to be indicated on the RCPS.

Butler Building Second Floor staircase and lightwell:

- Submit 1:20 plans, sections and elevations illustrating the proposed intervention to provide the required guarding height to the balustrade surrounding the lightwell and original staircase.

Basement water proofing strategy:

- Submit a detailed method statement for addressing damp issues in the basement for the approval, noting that there is not an issue with rising damp in the walls or water penetration from the street level above (AHIA p.123).

Proposed science show theatre:

- Clarify anomaly between Drawing 111 (which implies stepped wall linings) and Drawing 148 and submit 1:20 plans, sections and elevations of the proposed theatre layout and riser doors.
- Clarify the riser layouts and door arrangements on Drawings 111 and 148 which will need to be sensitively detailed.

Existing and Proposed Doors/Openings:

- Submit a detailed door schedule which identifies all historic glass to be retained, and where new glass to match existing is required (where damaged/missing), key defects and proposed conservation repairs and clarify what works are intended by the dotted hatch on Drawing 140 on doors DG03-01,02,03,04 and DG04-01 which is not included in the legend.
- Demonstrate that all alternatives have been investigated to retain the original doors where fire rated performance is sought

- Proposed Main Entrance Doors DG01-01 (north elevation of the Butler Building): Submit 1:20 part elevation that includes the proposed new entrance doors, the intermediate decorative spandrel and window at first floor level, and first bay on either side of the breakfront to determine the appropriate proportions and detailing of the doors and over-panel, include 1:20 plan and section through new doors and 1:10 key details.
- Clarify whether proposed door DB 10-02 (Drawing 602) is timber or metal and investigate/demonstrate suitable proximate doors/windows to determine the best position for the horizontal rail/door head/glazed over-panel on the new door, to ensure visual consistency.
- Clarify proposed alterations and linings to pair of openings in Lift Lobby on annotated 1:20 drawings (all floor levels)
- Proposed draught lobby to the new main entrance and ticket office on the north elevation of the Butler Building on the Ground Floor Plan Drawing 111: clarify anomaly with what is indicated on Drawing 147 and provide 1:20 plans, sections and elevations of the proposed draught lobby and doors.

Existing and Proposed Windows:

- Submit a detailed window schedule that records all surviving historic glass and required replacements of damaged glass only, key defects and proposed conservation repairs, removal of film and vents etc. The repair rather than replacement of original windows is guided in all instances when dealing with historic properties. An experienced conservator of historic joinery / heritage contractor is recommended.
- Clarify what works are intended for the dotted hatch indicated on e.g., drawing 140
- Real Tennis Window Type 7 Drawing 601 - submit a 1:20 section and plan of the louvre window and all proposed secondary glazing to the interior, avoiding any interference with the playable surface of the court interior. If the windows are to be sealed to upgrade the thermal performance, confirm the ventilation proposals for the space.
- In addition to the aforementioned items, submit detailed methodologies for brickwork and stone repair and re-pointing where required; cleaning of and

repairs to historic render and decorative work; repairs of historic boundary walls and railings.

Cross referencing of documentation:

- Provide window and door reference numbers on all drawings submitted where works are proposed so that cross-referencing and efficient assessment of the proposed works are facilitated. (e.g., Real Tennis Court ground floor plan Drwg. No. 211 - new ground floor doors into Rear Tennis Court; first floor plan windows on Drwg. No. 212).
- Provide Room Reference Names that relate to the Proposed Plan Drawings (110 - 114 inclusive) to accompany the Door/Window Reference Nos. on drawings 600,601,602,603,604 to facilitate cross-referencing, locating and assessment.
- Include the constructed First Defenders' Memorial Garden in the updated site layout, notwithstanding its location outside the subject site, but within the receiving environment.
- Indicate levels for all existing and new parapet and apex heights, dimensions of setbacks from the existing Protected Structures and dimensions (height and width) of proposed new openings within the Protected Structures.

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

5. A copy of the finalised report regarding the historic structure to be demolished, historic building to be re-used and their original plan form, character, historic arrangement and details to be placed with the Irish Architectural Archives and the Local Authority for record purposes.

Reason: In order to establish a record of this Protected Structure.

6. 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 be prepared by a suitably qualified archaeologist and shall address the following issues.
- The archaeological and historical background of the site, to include industrial heritage.
- A paper record (written, drawn and photographic, as appropriate) of any historic buildings and boundary treatments, etc.
- The nature, extent and location of archaeological material on site by way of archaeological testing &/or monitoring of the removal of overburden.
- The impact of the proposed development on such archaeological material.

c) The archaeologist shall forward their Method Statement in advance of commencement to the Planning Authority.

d) Where archaeological material is shown to be present, a detailed Impact Statement shall be prepared by the archaeologist which will include specific information on the location, form, size and level (corrected to Ordnance Datum) of all foundation structures, ground beams, floor slabs, trenches for services, drains etc. The assessment shall be prepared on the basis of a comprehensive desktop study and, where appropriate/feasible, trial trenches excavated on the site by the archaeologist and/or remote sensing. The trial trenches shall be excavated to the top of the archaeological deposits only. The report containing the assessment shall include adequate ground-plan and cross-sectional drawings of the site, and of the proposed development, with the location and levels (corrected to Ordnance Datum) of all trial trenches and/or bore holes

clearly indicated. A comprehensive mitigation strategy shall be prepared by the consultant archaeologist and included in the archaeological assessment report.

e) No subsurface work shall be undertaken in the absence of the archaeologist without his/her express consent. The archaeologist retained by the project to carry out the assessment shall consult with the Planning Authority in advance regarding the procedure to be adopted in the assessment.

f) One hard copy and 1 digital copy in pdf format containing the results of the archaeological assessment shall be forwarded on completion to the Planning Authority. The Planning Authority (in consultation with the City Archaeologist and the National Monuments Service, Dept. of Housing, Local Government and Heritage, shall determine the further archaeological resolution of the site.

g) The developer shall comply in full of any further archaeological requirement, including archaeological monitoring, and if necessary archaeological excavation and/or the preservation in situ of archaeological remains, which may negate the facilitation of all, or part of any basement.

h) The developer shall make provision for archaeological excavation in the project budget and timetable.

i) Should archaeological excavation occur the following shall be submitted to the Planning Authority:

- A biweekly report on the archaeological excavation during the excavation and post excavation period.
- A preliminary report on the archaeological excavation not later than four weeks after the completion of the excavation.
- A final report on the archaeological excavations not later than twelve months after the completion of the excavation.

j) Before any site works commence the developer shall agree the foundation layout with the Planning Authority.

k) Following submission of the final report to the Planning Authority, where archaeological material is shown to be present the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City

Archaeological Archive Guidelines (2008 Dublin City Council), and lodged with the Dublin City Library and Archive, 138-144 Pearse Street, Dublin 2.

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

7. All service cables associated with the proposed development such as electrical, telecommunications and communal television should be located underground. 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

8. The construction of the development shall be managed in accordance with a Construction Management Plan, Environmental Management Construction Plan and Construction and Demolition Waste Management Plan (CDWMP) 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 hours of working, noise and dust management measures, traffic management arrangements/ measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety.

9. Drainage arrangements including attenuation and disposal of surface water, shall comply with the requirements of the planning authority.

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

10. The developer shall comply with the detailed requirements of Transportation Planning Division of Dublin City Council

Reason: To ensure a satisfactory standard of development in the interest of public safety.

11. No development shall commence on site until such time as the developer has liaised with MetroLink / NTA and written agreement reached to ensure the design of any substratum works, basements, underpasses and/or foundations are compatible with proposed Metrolink infrastructure.

Reason: In the interest of proper planning and orderly development.

12. 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 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

13. 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 of roads, footpaths, watermains, drains, 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 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 of the development.


14. 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, 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.

15. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to permission.

Board Member


Martina Hennessy

Date: 22/02/2024