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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3955/19**

**APPEAL** by Clopen Limited care of Simon Clear and Associates of 3 Terenure Road West, Terenure, Dublin against the decision made on the 31<sup>st</sup> day of October, 2019 by Dublin City Council to refuse permission to the said Clopen Limited.

**Proposed Development** The development will consist of: (1) The demolition of existing building, structures and hardstanding areas on site except for existing front part of the two-storey take-away restaurant building at 39 Clanbrassil Street fronting onto Clanbrassil Street; (2) The construction of a mixed-use development of 36 number apartments with associated balconies/terraces comprising of 22 number one-bedroom units and 14 number two-bedroom units, one number take-away restaurant unit (existing) and one number shop/retail services unit in two number blocks (Block 1 and Block 2); (3) Block 1 comprises a part two/part two-storey plus pitched roof building at 39 Clanbrassil Street Upper accommodating one number take-away restaurant unit at ground and first floor level (including existing structure fronting onto Clanbrassil Street Upper) and four number apartment units; (4) Block 2 comprises a part three/four/five/six-storey building at 40, 41, 42 and 42A Clanbrassil Street Upper accommodating one number shop/retail services unit at ground floor level (fronting onto Clanbrassil Street Upper) and 32 number apartment units, including an external landscaped courtyard at

ground floor level and roof terrace at fifth floor level; and (5) All ancillary site development works, plant areas, refuse storage areas, bicycle storage areas, boundary treatment works and services, all on a site at 39, 40, 41, 42 and 42A Clanbrassil Street Upper, Dublin.

## **Decision**

**REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

1. Having regard to the design, scale and layout of the proposed development, it is considered that the proposed development would constitute overdevelopment and would be excessively overbearing on adjoining properties to the north. The Board is not satisfied that the overshadowing and overlooking effects on the properties on Garden Terrace had been sufficiently mitigated and considered that the proposed development would seriously injure the residential amenities of property in the vicinity, and would not, therefore, be in accordance with the proper planning and sustainable development of the area.

2. It is considered that the number of apartments proposed in Block A would receive inadequate daylight and sunlight given their proximity to Block B and would seriously injure the residential amenities of any future occupants. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The Board is not satisfied that the developer has demonstrated that they can provide adequate arrangements for refuse collection, access for emergency vehicles and deliveries, and considers that the proposed development would endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board considered that the level of diminution of the amenity for residents living in close proximity to the north of the proposed development had not been sufficiently mitigated in relation to overlooking and overshadowing, that the disposition of Block 1 and Block 2 on the site would result in an unacceptable level of residential amenity for future occupants, and that the access arrangements for refuse collection, deliveries and emergency vehicles would result in a risk to pedestrian and traffic safety. The proposed development would not, therefore, not be in accordance with the proper planning and sustainable development of the area.

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**Michelle Fagan**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2020.**