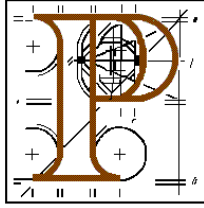


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Register Reference Number: 2203/15

An Bord Pleanála Reference Number: PL 29S.245460

APPEAL by Michael Judd and others care of 349 South Circular Road, Rialto, Dublin and by Dolphin Alliance care of Frank MacHale of Dolphin House Community and Health Centre, Dolphin House, Rialto, Dublin against the decision made on the 13th day of August, 2015 by Dublin City Council to grant subject to conditions a permission to Marziplant Limited care of JSA Architects Ireland of 10 Booterstown Avenue, Blackrock, County Dublin.

PROPOSED DEVELOPMENT: Mixed use development consisting of the demolition of the central bay extension to the original façade at first floor level, retention and refurbishment works (to include new structural openings and floor level adjustments) to the front façade up to and including the signage (1936 RIALTO) at the pediment of the second storey, demolition of all site structures behind the second storey pediment, the reinstatement of the former cinema canopy and the construction of a five –storey above ground mixed use development to include basement car park on a site measuring 3078 square metres. The development will provide development at basement level:- 24 car spaces, stairs, lift shaft and refuse storage for residential use (40 square metres). At ground level:- one number retail unit (78 square metres), 42 car parking spaces for retail use, ESB substation and metering room, residential-entrance lobby (89 square metres), retail entrance lobby (231 square metres), vehicular access off South Circular Road, vertical circulation shafts for retail and residential use, 20 bicycle spaces for retail use and 24 bicycle spaces for

residential use, vehicular ramp, new treatments to all site boundaries. At first floor level: – a discount food store (1140 square metres net retail area) with ancillary off-licence sales, ancillary office accommodation, storage, circulation, plant areas (internal and external), stairs and lift shafts. At second floor: – a communal landscaped podium deck (1157 square metres). Second to fourth floors (three storeys) will provide 24 residential units consisting of four number one bedroom apartments with private balconies. 10 number two bedroom apartments with private terraces at podium level and private balconies on upper levels and 10 number two bedroom duplex apartments with private terraces at podium level and private balconies on upper levels, stair and lift shafts, and all associated site development works, all at the Former Rialto Cinema, 357/9 South Circular Road, Rialto, Dublin.

DECISION

REFUSE permission for the above proposed development based on 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 its height, scale and bulk, to the elevation and location of open space and the nature of its use, and to the close proximity to boundaries, it is considered that the proposed development would seriously injure the visual and residential amenities of property in the vicinity, particularly the rear garden amenity of houses to the east by reason of overlooking, overshadowing, overbearing impact, visual obtrusiveness and diminution of privacy and daylight, as well as overshadowing and overbearing impacts for residential property and associated open amenity space to the west. The Board also considered that the proposed boundary treatment is inadequate and would be likely to result in a poor relationship between the proposed development and its surrounds, including the effective nine-metre walls at or close to the open space serving residential property to the south and west. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is proposed to add the front elements of the Rialto Cinema to the record of protected structures. The Board is not satisfied that the proposed alterations appropriately reflect the architectural heritage of the original design. Furthermore, the Board considers that the proposed development is over-dominant and would be visually obtrusive in relation to the front elements of the existing building. It is considered that the proposed development would result in the erosion of character of a structure of architectural and social value, would diminish the contribution of the cinema to the streetscape, would seriously injure the amenities of the area and of property in the vicinity, 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 shared his concerns in relation to the impacts of the proposed development on the houses to the east, but did not share his view that the orientation or location of these houses in an inner urban area would justify a grant of permission in the context of the scale and extent of the impacts arising in this case. Neither did the Board share the Inspector's view that the proposed setting back of the upper floors to the west would resolve overshadowing and overbearing impacts. Furthermore, the relationship between the site and the public realm is currently very poor to the south and west, and the proposed development would exacerbate it by reason of its scale and proximity to these boundaries, which would be visually overbearing, as well as the extensive use of hard materials and the absence of provision for any effective boundary landscaping at this level. It was considered that the proposed development would diminish the character of the streetscape to the south and west. The further overshadowing of the public amenity area to the west serving neighbouring residential property was also of concern.

Furthermore, the Board had significant concerns in relation to the impact of the proposed development on the architectural heritage of the cinema, the potential for the erosion of character of a structure of architectural and social value, and the diminution of the contribution of the cinema to the streetscape.

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

Dated this day of 2016.