

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Register Reference Number: 2878/15

An Bord Pleanála Reference Number: PL 29S.245834

APPEAL by Hugh Malone of 75 Templeogue Road, Terenure, Dublin and by Others against the decision made on the 9th day of November, 2015 by Dublin City Council to grant subject to conditions a permission to Sheelin McSharry care of John Spain Associates of 50 Upper Mount Street, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Demolition of the existing two-storey dwelling and construction of a total of 30 number residential units, comprising two number semi-detached four bedroom houses of part two, part three storeys. The houses include a winter garden at second floor level; Apartment Block A to comprise of a part three, part four storey development consisting of 22 number apartment units, with a mix of nine number three bedroom apartments (including one number duplex unit) and 13 number two bedroom apartments. Block A includes a setback at second floor level from the north-east elevation and at third floor level from the south-east and north-east elevation. Winter gardens are proposed at all levels, a roof terrace is proposed at second floor level, and a balcony and roof garden is proposed at third floor level. Apartment Block B comprising a three-storey block of six number two bedroom apartment units. A roof garden is proposed at roof level of Block B, winter gardens are proposed at first and second floor levels and terraces at ground floor level. A single level basement beneath proposed Block A comprising of 41 number car parking spaces, 65 number bicycle parking spaces, bin store, plant room and store, and a social/games room. An additional five number car parking spaces are provided at surface level. The proposed development includes all associated and ancillary works, communal

open space, hard and soft landscaping, access road and associated works. Access to the proposed development will be provided from Templeogue Road. All at a 0.34 hectare site located at number 85 Templeogue Road, Dublin.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions 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

Having regard to the pattern of development in the area, to the zoning for the site and the provisions of the current Development Plan for the area, to the proximity of public transport and to the nature of the proposed design, it is considered that, subject to compliance with the conditions set out below, the proposal would not seriously injure the residential amenities of the area or the amenities of property in the vicinity, would be acceptable in terms of traffic safety and convenience, and would be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board concurred with the assessment of the Planning Authority in regard to the acceptability of the access way and considered that any residual concerns could be addressed by way of condition.

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 on the 14th day of October, 2015, 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) apartment number A14 shall be omitted from the proposed development,
 - (b) one car parking space shall be omitted from the proposed ground level car parking provision and dedicated as open space, and
 - (c) an acoustic barrier, no more than two metres in height shall be provided to the north side of the proposed access ramp to the proposed basement car park.

Revised drawings showing compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

3. The following shall apply to the areas of private and communal open space:
 - (i) prior to the commencement of development, details of the boundary treatment between the area of communal open space at surface level and the private terrace areas at ground floor level of Apartment Numbers A1, A5, A6, A7, B1 and B2 shall be submitted to, and agreed in writing with, the planning authority,

- (ii) prior to the commencement of development, details for the of the boundary treatments to be provided between the individual areas of private open space/terraces to the rear of Unit Numbers A2, A3, A4, A5, A6 and A7 at surface level shall be submitted to, and agreed with, the planning authority;
- (iii) the areas of private and communal open space shall be retained in accordance with the areas as indicated on drawing number pA[LA]00 received by the planning authority by way of further information on the 14th day of October, 2015, and
- (iv) the minimum depth of all terraces and winter gardens shall be 2.5 metres.

Reason: To ensure an adequate standard of private and communal open space for future residents of the scheme and to comply with the standards as set out in the current Development Plan for the area.

- 4. A road safety audit shall be carried out in consultation with the planning authority and any recommendations in regard to the layout of the entrance contained therein shall be implemented prior to operation of the proposed development.

Reason: in the interest of road safety.

- 5. The front South West boundaries of house numbers 86A and 86B shall be constructed of railing to the satisfaction of the planning authority. The existing front hedging shall be removed.

Reason: In the interest of road safety.

- 6. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
 - (i) the species, variety, number, size and locations of all proposed trees and shrubs,

- (ii) details of screen planting,
 - (iii) details of roadside/street planting,
 - (iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

To facilitate and inform this process, an up- to-date tree survey shall be submitted to the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

7. 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.

8. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

9. Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority.

Reason: In the interest of pedestrian safety.

10. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall 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.

12. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwellinghouses without a prior grant of planning permission.

Reason: In the interest of residential amenity.

13. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, no room in the proposed house(s) shall be used for the purpose of providing overnight paying guest accommodation without a prior grant of planning permission.

Reason: In order to prevent overdevelopment of the site in the interest of residential amenity.

14. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

15. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 14th day of October, 2015. This work shall be completed before any of the dwellings are made available for occupation.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

16. 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 housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) 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 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála 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 of the area.

17. Site development and building works shall be carried out only between the hours of 0800 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.

18. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

19. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

20. (a) 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 for each apartment and house unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

21. The construction of the development shall be managed in accordance with a Construction Management Plan, 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 management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

22. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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 and maintenance of the development until taken in charge.

23. 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.

24. The developer shall pay the sum of €116,000 (one hundred and sixteen thousand euro) (€4,000 per residential unit) (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), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, as amended, in respect of the provision of public open space. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

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.

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

Dated this day of 2016.