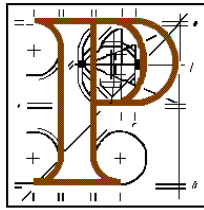


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Dublin City**

**Planning Register Reference Number: 3308/15**

An Bord Pleanála Reference Number: PL 29S.245893

**APPEAL** by the Rathgar Residents Association care of Philip O'Reilly of Post Office Box Number 9574, Dublin against the decision made on the 26<sup>th</sup> day of November, 2015 by Dublin City Council to grant subject to conditions a permission to Frank McNerney care of Collin Maher Martin Architects of Dodder Park Road, Rathfarnham, Dublin in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Demolition of the existing buildings, 190 being a two-storey semi-detached house and 189 a two-storey semi-detached building divided into five flats, and construction of a three-storey over basement apartment building with nine apartments, comprising four by three bed, four by two bed and one by one bed; with balconies or roof terraces at first and second floor level; and a caretaker's room, alterations to front boundary treatment including widening of existing vehicular entrance to 189, 15 basement car parking spaces, bin storage, cycle parking, service connections, landscaping and all associated site works, all at 189-190 Rathgar 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 residential zoning of the site in the current Dublin City Development Plan, to the pattern of development in the area and to the design and layout of the scheme, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be detrimental to the character of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 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 to the planning authority on the 30<sup>th</sup> 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. Measures shall be taken to prevent overlooking and the proposed second floor terrace area shall include 1.8 metres opaque screening to the northern and southern elevations. Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect the residential amenities of adjoining properties.

3. Details of the materials, colours and textures of all the external finishes to the proposed building, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

**Reason:** In the interest of visual amenity.

4. 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 1:200 showing:
  - (i) Details of landscaping including the provision of screening along the site boundaries of the rear garden area.
  - (ii) The species, variety, number, size and locations of all proposed trees and shrubs on site including site frontage landscaping.
  - (iii) 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, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

5. Prior to commencement of development, details of all boundary treatment shall be submitted to, and agreed in writing with, the planning authority. In this regard -
- (a) Existing boundary walls including the wall with high rails along the eastern (rear) boundary of the site and side boundary walls shall be retained.
  - (b) Any stone walls damaged by the works shall be rebuilt and walls of a minimum 1.8 metres in height shall be provided along the side boundaries.
  - (c) Railings shall be provided along the roadside frontage as shown on the Context Street Elevation Drawing submitted with the application.

**Reason:** In the interest of residential and visual amenity.

6. (a) Detailed requirements regarding the vehicular entrance to the site from Rathgar Road and parking layout and circulation in the basement area serving the proposed development, car parking, bicycle parking, footpaths and kerbs shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) The proposed one-way basement ramp shall be controlled by traffic signals and shall ensure a flow of traffic.
- (c) The basement carparking shall be reserved for occupants of the apartments and none of the car parking spaces shall be sold, leased or sub-leased or otherwise assigned separate to the use as residential.
- (d) Details of pedestrian access, including lighting and security measures to the residential block shall be submitted to, and agreed in writing with the planning authority, prior to commencement of development.

**Reason:** In the interest of pedestrian and traffic safety and the proper planning and sustainable development of the area.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

8. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the submitted drawings, unless authorised by a prior grant of planning permission.

**Reason:** In the interest of residential and visual amenity and to protect the character and setting of the area.

9. All service cables associated with the proposed development (such as electrical, communal television, telephone and public light cable) shall be run underground within the site.

**Reason:** In the interests of orderly development and the visual amenities of the area.

10. (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 and for the ongoing operation of these facilities 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) Bin storage facilities shall be provided for the apartments in the basement area.

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

11. Site development and building works shall be carried out between 0700 hours and 1800 hours from Mondays to Fridays inclusive, between 0800 hours and 1400 hours on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times shall 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.

12. (a) 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.
- (b) This shall include a detailed method statement to mitigate potential nuisance including noise and dust. The statement shall outline how it is proposed to prevent spillage or deposits of clay, rubble or other debris on adjoining roads during construction.

**Reason:** In the interests of sustainable waste management and to mitigate potential construction nuisance.

13. The management and maintenance of the proposed development, following its completion, shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads, parking spaces and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

14. 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.

15. 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.

16. 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.

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

**Dated this            day of            2016.**