

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Dublin City**

**Planning Register Reference Number: 2388/16**

An Bord Pleanála Reference Number: PL 29S.247174

**APPEAL** by Sean and Dympna McDermott of 33 Bath Avenue, Sandymount, Dublin and by Laura Sherry and others of 31 Bath Avenue, Sandymount, Dublin against the decision made on the 3<sup>rd</sup> day of August, 2016 by Dublin City Council to grant subject to conditions a permission to Uniball Bars Limited care of O’Riain Planning of Cashel, Ballyroan, Portlaoise, County Laois in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Development consisting of (1) the demolition of the commercial building on site (858 square metres) and (2) the provision of four, three-bed, three-storey, terraced units ranging from 184-185 square metres. Permission will include all associated site works including the provision of solar panels, hard and soft landscaping and boundary treatments, associated car-parking provision, including off-street parking, provision of foul and surface water drains and attenuation on site with connections to existing services and provision of a water mains on site with connection to the existing water mains, on a site of 0.08 hectares at Shaws Lane, Off Bath Avenue, 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 objective for the area and the existing pattern of development in the vicinity of the subject site, and to the need to promote increased residential densities and remove non-conforming uses, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area, would not be out of character with the pattern of development in the area, and would be acceptable in terms of traffic safety and convenience. 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 on the 7<sup>th</sup> day of July 2016, 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) House number 4, at the northern end of the subject site shall be revised to a two storey dwelling by the omission of the entire ground floor, including parking and storage area. This revised unit shall have the same (or a lesser) footprint than the proposed house, and shall have a maximum of five bedspaces and a minimum of 40 square metres of private amenity space.
  - (b) The parking area at the western side of the overall site shall be revised by the relocation of the proposed disabled parking space to the southern end. A single car parking space shall be provided, in lieu of this space, to serve the occupants of house number 4 (as modified by this order). This parking space shall be dedicated for the use of the occupants of house number 4, included in the ownership of this house, and shall not be subsequently separated from house number 4 by sale or lease.
  - (c) The remainder of the proposed car parking area and hard landscaped space to the western side of the overall site, consequent on condition 2(b) of this order shall be laid out and landscaped as public open space for the benefit of the occupants of the four proposed houses, and shall not be used for car parking, unless the special development contribution under condition number 14 of this order has been paid to the planning authority in lieu of public open space.
  - (d) The screens to the terraces at first floor level shall be a minimum of 1.8 metres in height above the level of the terraces, and shall be finished in opaque glass, not timber.
  - (e) All windows serving landings, WCs, en-suite WCs and bathrooms in the proposed development shall be permanently fitted with opaque glazing.

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

**Reason:** In the interests of visual amenity, adequate provision of communal/public open space, and to ensure the protection of the residential amenities of adjoining properties.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. The road serving the proposed development shall comply with the provisions of the Design Manual for Urban Roads and Streets (Department of the Environment, Community and Local Government/Department of Transport, Tourism and Sport), and with the detailed standards of the planning authority for such road works for the purposes of taking in charge.

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

5. The rear gardens of the four houses hereby permitted shall be bounded by concrete block walls 1.8 metres in height, which shall be capped and rendered on both sides, except where they bound adjoining open areas/laneways, when the walls shall be two metres in height. Concrete post and timber panel fences shall not be used.

**Reason:** In the interests of visual amenity, the protection of residential amenities, and of providing durable boundary treatment to rear gardens.

6. 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 houses without a prior grant of planning permission.

**Reason:** In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings, and to protect the residential amenities of adjoining properties.

7. All service cables associated with the proposed development, such as electrical, telecommunications or 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.

8. Site development and building works shall be carried only out between 08.00 hours and 18.00 hours Mondays to Fridays excluding bank holidays and between 08.00 hours and 13.00 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In the interest of protecting the residential amenities of adjoining properties.

9. 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 noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of clarity, orderly development and amenity.

10. 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.

11. A plan containing details for the management of waste 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.

**Reason:** In the interests of residential amenity and proper waste management.

12. 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 until taken in charge by the local authority of roads, footpaths, watermains, drains, public open spaces 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 and maintenance of the development until taken in charge.

13. 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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 for the area.

14. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of the provision or improvement by the local authority of public open space in the area which would benefit the proposed development, unless such public open space is provided by the developer on-site under the provisions of condition number 2 (c) of this order. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be 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.

**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, having regard to the lack of public open space proposed in this instance.

15. 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 the 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            2017.**