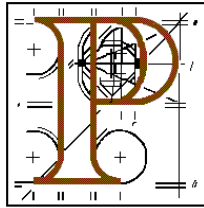


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Dublin City

Planning Register Reference Number: 4313/15

An Bord Pleanála Reference Number: PL 29N.247378

APPEAL by Gary Fitzgerald of Distillery Building, 145-151 Church Street, Dublin and by others against the decision made on the 12th day of September, 2016 by Dublin City Council to grant subject to conditions a permission to Independent Trustee Company Limited care of Fenton and Associates of Unit 3, The Seapoint Building, 44-45 Clontarf Road, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Consisting of the construction of six number four-bed three-storey houses to the rear of Stone Villa (that is, four number terraced houses and two number semi-detached houses). This application also seeks permission to:

- (i) Build a new three-storey extension to the side (west) and rear of Stone Villa,
- (ii) Provide a terrace at ground floor level and balconies at first and second floor levels to the front of the new side extension and,
- (iii) Renovate the existing Protected Structure, all of which will cater for six number two-bed apartments.

The proposed development also proposes to widen the existing vehicular entrance and includes for all associated site development works, bin storage, surface car parking and landscaping, all on a site of 0.27 hectares at Stone Villa (Protected Structure) number 297 North Circular Road, Phibsborough, 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 provisions of the Dublin City Development Plan 2016-2022, to the scale and nature of the proposed development and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the development plan, would not seriously injure the amenities of the area or of property in the vicinity, would not adversely affect the character of a protected structure, would provide an acceptable standard of amenity for future residents and would promote sustainable modes of transportation. 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 16th day of August, 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 revised as follows:
 - a) The two second floor apartments in the proposed three-storey extension to Stone Villa shall be omitted with the extension reduced to two storeys only save for the proposed lift and access requirements at second floor level.
 - b) The second floor balconies to the front of house type 'B' (unit numbers 5 and 6) shall be permanently omitted from the scheme.
 - c) 1.8 metre high capped and rendered boundary walls shall be provided between the rear gardens of the proposed housing proposed housing units.

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 interest of protecting the setting and context of the protected structure 'Stone Villa' and protecting the visual and residential amenities of the area and of property in the vicinity.

3. The developer shall comply with the following requirements in relation to the proposed restoration of the protected structure, which shall be carried out in accordance with the document: “Architectural Heritage Protection – Guidelines for Planning Authorities”, as published by the Department of Arts, Heritage and the Gaeltacht, 2011;
- a) the replacement of any brickwork or any works of re-pointing shall be undertaken so that it matches the original existing wall finish and shall be in accordance with current Conservation Guidelines issued by the Department of Arts, Heritage and the Gaeltacht,
 - b) the existing roof slates, chimney stacks and pots shall be retained, any replacement roof slates shall match the existing,
 - c) where possible the remaining rainwater goods and bargeboard shall be repaired and reused, the replacement rainwater goods and bargeboard shall match the original in terms of design and materials, and
 - d) replacement windows shall be modelled on surviving windows and shall match them in dimensions, opening mechanism, profiles and materials.

Detailed elevation drawings to a scale of not less than 1:50, showing these amendments, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to ensure an appropriate standard of restoration works for this protected structure.

4. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

5. Site development and building works shall be carried out only between the hours of 0800 to 1800 hours Mondays to Fridays inclusive, between 0800 hours 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 amenities of property in the vicinity.

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

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

7. The developer shall comply with the following conditions from Dublin City Council Parks and Wildlife Service;

- a) All trees to be retained as per the submitted Arboriculture Assessment report dated the 12th day of May, 2016 shall be retained including tree number 170. Tree protection measures during construction shall be implemented as per the report and as per BS 5837. Construction methods of the proposed car parking area at tree number 166 shall follow the method recommended in the report. The car park spaces shall be redesigned to move the proposed landscape space between spaces numbers 4 and 5 to replace car park space number 9 at tree number 166.

All preliminary recommendations within the report from remedial works to trees shall be carried out by a competent qualified tree surgeon prior to commencement of development.

- b) The landscape scheme accompanying the application shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. (The landscape scheme shall have regard to the Guidelines for Open Space Development and Taking in Charge, copies of which are available from the Parks and Landscape Services Division of the planning authority).

Reason: In the interest of residential and visual amenity.

8. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, 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 for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

9. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

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

10. Save for the requirements of condition number 2(c) above, all boundary treatments shall be carried out in accordance with the plans and particulars submitted to the planning authority at further information stage.

Reason: In the interests of residential and visual amenity, and to ensure the provision by the developer of a durable boundary treatment.

11. 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 for taking in charge by the local authority.

Reason: In the interest of amenity and of traffic and pedestrian safety, and to facilitate the eventual taking in charge of the development, following its completion, by the local authority.

12. 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. All lighting, as approved by the planning authority, shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

13. Proposals for an estate name, house/apartment 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/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility, and to ensure the use of locally appropriate place names for new residential areas.

14. All cleaning works to be carried out on the adjoining public roads, shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

15. 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.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and the adjacent public street tree and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of tree or trees to be retained on the site or adjacent public street tree, or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site and the adjacent public street.

17. 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.

18. 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.

19. 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 lieu of the provision of public open space. 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.

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

Dated this day of 2017.