



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 4613/17

Appeal by Dromeenagh LLC care of Val O'Brien and Associates of G2 The Steelworks, Foley Street, Dublin against the decision made on the 23rd day of February, 2018 by Dublin City Council to refuse a permission to the said Dromeenagh LLC for the proposed development.

Proposed Development: Development consisting of (1) excavation of part of the rear garden at ground/basement level and the construction of a storage room with a patio/garden terrace to the roof of same and ancillary stairs between upper and lower garden levels. (2) Installation of new boundary iron railings to divide the rear garden and the car park to the rear of the building. (3) Landscaping of the proposed garden including bin storage ancillary to the dwelling and one number car parking space within the new garden enclosure, at 62 Merrion Square South, Dublin – A Protected Structure.

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 policies and objectives, as set out in the Dublin City Development Plan 2016-2022, including Policy CHC2 of the Plan, to ensure that special interest of protected structures is protected, to the nature and scale of the proposed development, and to the existing pattern of development in the vicinity, including the existing neighbouring basement storage and roof terrace at number 63 Merrion Square, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the character or setting of the protected structure or of the adjoining protected structures within the designated Conservation Area and would, therefore, 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 considered that the proposed development, including the flat-roofed single storey detached structure, would not result in excessive interference to the fabric, original details of the protected structure or its returns, or with the boundary wall which separates the property from the neighbouring number 63 Merrion Square, and would not unduly affect the views and vista of the original building or its returns.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 structure at basement level shall only be used for storage or other non-habitable uses ancillary to the dwellinghouse.

Reason: In the interest of clarity and of residential amenity.

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

Reason: In the interest of the visual amenities of the area.

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. Surface water from the site shall not be allowed to discharge onto adjoining properties.

Reason: In the interest of public health and to protect the amenities of adjoining properties.

5. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

6. Site development and building works shall be carried out between the hours of 0800 and 1800 Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays 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.

7. (a) An accredited Conservation Architect shall be employed by the developer to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and façade's structure and/or fabric.
- (b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and in accordance with the "Architectural Heritage Protection Guidelines for Planning Authorities" issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

Reason: To ensure that the integrity of the protected structure is maintained and that the existing fabric is protected from unnecessary damage or loss.

8. 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 public safety and residential amenity.

9. 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.

10. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City (St. Stephen's Green to Broombridge Line) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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

Dated this day of 2018.