



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 3207/18

Appeal by Rathgar Residents' Association of PO Box Number 9574, Dublin against the decision made on the 1st day of November, 2018 by Dublin City Council to grant subject to conditions a permission to Frank McNerney care of Collins 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 being a two-storey semi-detached building divided into five flats and construction of a four storey over basement apartment building with 19 number apartments comprising 1 number three bed, 11 number two bed, 4 number one bed and three number studio units, each with balconies or roof terraces and a 41 square metre management suite and alterations to the front boundary treatment including widening of existing vehicular entrance to 189, adjustment to the existing boundary line and construction of a new wall at the southern boundary, 12 number basement car parking spaces, two number ground level parking spaces, 19 number basement storage rooms, bin storage, cycle parking, service connections, landscaping and all associated site works at 189 and 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 objective for the area and to the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December, 2015 and having regard to the pattern of development in the area and the planning history of the subject site, 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 not be detrimental to the character of the area and would be acceptable in terms of pedestrian and traffic safety. 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 5th day of October, 2018, 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. Prior to the commencement of the development, the applicant shall submit and agree, in writing, with the planning authority, a landscaping plan and planting scheme for the front curtilage which shall include the following requirements:
 - (a) the cycle parking facilities shall be confined to a reduced size, designated cycle parking space suitably surfaced and accessible only from the pedestrian entrance at the northern end of the site frontage. The remaining area shall be landscaped and be incorporated into the area shown as 'public open space' on the lodged plans, and
 - (b) the two visitor parking spaces proposed for the front curtilage shall be omitted in entirety and incorporated into the area shown as 'public open space' on the lodged plans.

Reason: In the interests of the residential amenities of the future occupants and the visual amenities of the area, having regard to the prominent site location.

3. (a) Prior to the commencement of development, the applicant shall submit and agree in writing with the planning authority, details of traffic signals for control of the use of the basement ramp with priority for incoming vehicles.
- (b) The basement car parking shall be allocated and managed in accordance with the car parking strategy submitted to the planning authority on the 5th day of October 2018, unless otherwise agreed with the planning authority. Parking spaces shall not be sold, rented, sub-let or leased to other parties, or otherwise assigned.

Reason: In the interest of clarity pedestrian and traffic safety and residential amenities.

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

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

5. 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.

6. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 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.

7. (a) In addition to the submitted landscaping proposal, a scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the rear southern boundary consisting predominantly of mature trees, capable of growing to the minimum height of three metres. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.

- (b) 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 order to screen the development, in the interest of visual amenity.

8. 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.

9. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place at roof level, including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

10. 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 open spaces, roads, parking spaces and circulation 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.

11. 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.

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 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.

13. 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

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

Dated this day of 2019.