



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 2490/19

Appeal by Noel and Bri McInerney of 37 Lower Oriel Street, Dublin against the decision made on the 11th day of November, 2019 by Dublin City Council to grant subject to conditions a permission to Gerry Fay care of Tyler Owens Architects of The Mash House, Distillery Road, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: (i) The demolition of existing single storey commercial structure at corner of number 78 Seville Place and Lower Oriel Street, the demolition of the internal structure to number 77 Seville Place with the retention of the original façade and roof facing onto Seville Place and gable wall facing onto Fourth Avenue, the demolition of the internal structure and roof of the two storey terrace dwelling at 38 Lower Oriel Street with the retention of the original façade and the demolition of the internal structure of the single storey terrace dwelling at 60 Fourth Avenue with the retention of the original façade and roof; (ii) the construction of a part three / part four-storey mixed use development comprising one number commercial unit (87 square metres) at ground floor, one number three bed residential unit (112 square metres), one number two-bed residential unit (91 square metres), five number

one-bed residential units (52 square metres-58 square metres each), two number studio residential units (38 square metres each), and one number penthouse residential unit (60 square metres) giving a total of 10 residential units; (iii) bicycle and bin storage to ground floor; (iv) balconies fronting onto Seville Place, Fourth Avenue and Lower Oriel Street; (v) communal roof terrace at third floor to serve all residential units; (vi) addition of new windows to existing gable wall of 77 Seville Place facing onto Fourth Avenue; (vii) minor amendments to existing façade of 77 Seville Place at ground floor level; (viii) dormer style windows facing onto Lower Oriel Street and Fourth Avenue; and all ancillary works necessary to facilitate the development at numbers 77-78 Seville Place, number 38 Lower Oriel Street and number 60 Fourth 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:

- (a) The provision of the Dublin City Development Plan 2016-2022,
- (b) Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government (March 2018),
- (c) The existing pattern of development at this location,
- (d) The design, scale and layout of the proposed development, and
- (e) The submissions and observations on file,

it is considered that, subject to the compliance with the conditions set out below, the proposed development would be in accordance Development Plan policy, would not detract from the visual amenities of the area, would be acceptable in the context of the amenities of adjoining properties, acceptable in the context of its location in a residential conservation area and be satisfactory in the context 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 7th day of June 2019 and the 15th day of October 2019, and by the further plans and particulars received by An Bord Pleanála on the 8th day of January 2020, 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) The windows serving the central corridor area on the north-eastern elevation at first, second and third floor level shall be fitted with obscured glazing and maintained permanently as such.
 - (b) The windows serving bathrooms at the first and second floors shall be fitted with obscured glazing and maintained permanently as such.

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 residential amenity.

3. Details of materials, colours and textures of all external finishes to the proposed development 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 proposed commercial unit shall be used only as a shop (as defined by Article 5 of the Planning and Development Regulations 2001 as amended), or as an office under Class 2 or Class 3 of Part 4 of the second schedule to the Planning and Development Regulations 2001, as amended. Any other use shall be the subject of a separate planning permission application.

Reason: In the interest of clarity.

5. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 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. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. 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.

8. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

9. Drainage requirements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development and to prevent pollution.

10. 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 interest of public safety and the amenities of the area.

11. 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. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. 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.

Reason: In the interest of sustainable waste management.

12. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

Reason: To provide for the future maintenance of this private development in the interest of residential amenity and orderly development.

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 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.

14. 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.

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 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 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.

Michelle Fagan

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board

Dated this day of 2020