

An
Bord
Pleanála

Board Order
ABP-306681-20

Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Planning Register Reference Number: 4515/19

DECISION QUASHED

Appeal by Lilacstone Limited care of Thornton O'Connell Town Planning Limited of 1 Kilmacud Road Upper, Dundrum, Dublin against the decision made on the 24th day of January, 2020 by Dublin City Council to refuse permission for development comprising the conservation, renovation and alteration of Stone Villa (a Protected Structure) (257 square metres) to accommodate three number apartments (two number one bedroom units and one number two bedroom unit) and the construction of 29 number apartments in two number new blocks (part three to part four number storeys in height) to the rear of the Protected Structure as follows: Block A (1,263 square metres) comprises 15 number apartments (four number one bedroom units and 11 number two bedroom units) and Block B (1,009 square metres) comprises 14 number apartments (seven number studios, two number one bedroom units and five number two bedroom units). The scheme provides for a total of 32 number apartments with a gross floor area of 2,529 square metres). The development will also include the widening of the existing vehicular entrance onto North Circular Road; nine number car parking spaces, bicycle parking, ESB substation; bin storage; hard and soft landscaping; pedestrian access; boundary treatments; solar panels; balconies (facing all directions); plant areas; external lighting and all other associated site works above and below ground all on 0.27 hectare site at 297 North Circular Road,

Phibsborough, Dublin. The site incorporates a Protected Structure (a house) known as 'Stone Villa' in accordance with the plans and particulars lodged with the said Council.

Decision

GRANT permission for the conversion and renovation of 'Stone Villa', a Protected Structure, to accommodate three number apartments and the construction of one number, four storey apartment block (Block A), to accommodate 15 number apartments in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. **REFUSE** permission for the construction of a four storey apartment block (Block B), to accommodate 14 number apartments at the rear of the site based on the reasons and considerations marked (2) under.

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 (1)

Having regard to the policies and objectives of the Dublin City Development Plan 2016-2022, the zoning objective for the site, the proposal for the renovation and refurbishment of the protected structure and the scale and design of the proposed "Block A" apartment building on an infill site in close proximity to public transport in a well serviced urban area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the 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 the entire development, the Board considered that, the works proposed to renovate and reuse the protected structure, and the proposed design, scale and disposition on the site of Block A, would be in accordance with the objectives and policies of the City Development Plan on this well serviced urban infill site, and that the omission of Block B would remove any unacceptable impacts on surrounding property. The proposed development would not seriously injure the residential or visual amenity of the area and 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, 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. Block B shall be omitted in its entirety, and the area shall be landscaped in accordance with a comprehensive boundary treatment and landscaping scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. The proposed development shall be amended as follows:

- (a) the underground car parking in Block A shall be omitted and the area shall be redesigned to accommodate secure bicycle storage, and
- (b) the bicycle store within Block A shall be omitted and the area shall be incorporated into an enlarged entrance lobby.

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 and residential amenity.

4. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

5. 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.

6. All works to the protected structure, shall be carried out under the supervision and in accordance with the requirements of a qualified professional with specialised conservation expertise (RIAI Grade 2 or higher).

Reason: To secure the authentic preservation of this protected structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

7. All service cables associated with the proposed development (such as electrical, telecommunication and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

8. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Six number clearly identified car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

9. The proposed car parking layout shall be modified so that at least one number space is provided for persons with impaired mobility. This space shall be located as close as possible to the building entrance. The layout, dimensions and markings for this space shall be in accordance with the guidance set out in the document "Building for Everyone - a Universal Design Approach" (National Disability Authority). Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure a satisfactory parking provision for the proposed development that is accessible to all users.

10. A minimum of one number car parking space shall be provided with EV charging stations/point, and ducting shall be provided for all remaining car parking spaces to facilitate the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the developer shall submit such proposals which shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

11. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) 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 for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.
- (c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each apartment plot.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

12. 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.

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 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 residential amenities of property in the vicinity.

14. Prior to commencement of development, the applicant or other person with an interest in the lands 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.

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, 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.


16. 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 in respect of Luas Cross City. 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.

Reasons and Considerations (2)

1. Notwithstanding the proposed variation in plans submitted with the grounds of appeal, it is considered that the proposed development in close proximity to the surrounding housing to the east and west would be visually overbearing and intrusive and would seriously injure the residential amenities of these properties. The proposed development would, therefore, be contrary to the zoning objective for the area which seeks to protect, provide and improve residential amenities under the current Dublin City Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development on a constrained site in close proximity to boundaries and reliant on extensively enclosed terraces and balconies would not provide for an adequate standard of development with regard to access to light and amenities and would therefore, seriously injure the residential amenities of future occupants and would be contrary to the policy of the Dublin City Development Plan 2016-2022 which seeks to provide for high-quality housing. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.



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

Dated this 16th day of December 2020.

DECISION QUASHED