



Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Planning Register Reference Number: 2660/20

Appeal by Maty Catering Limited care of O'Neill Town Planning of Oakdene, Howth Road, Howth, County Dublin against the decision made on the 10th day of July, 2020 by Dublin City Council in relation to an application by Patrick McBride, Maty Catering Limited care of Paul Tyndall Architects and Designers of 2 Montague Street, Dublin for retention of a 35 square metres single storey ground floor extension to the rear of the building, retention of roof covering over the smoking area at ground floor facing onto Parnell Place and the retention of a 2.1 metres high wooden boundary fence at first floor level separating 155 and 156 Parnell Street. The development also consists of planning permission for the use of the flat roof at first floor level to the rear of the building as a terrace of approximately 74 square metres accessed via an external stairs from the smoking terrace together with all associated landscaping and site works at 155 Parnell Street, Dublin, an existing mid-terrace four-storey over basement building fronting onto Parnell Street and Parnell Place in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions retention permission for a 35 square metres single storey ground floor extension to the rear of the building and to refuse permission for retention of roof covering over the smoking area at ground floor facing onto Parnell Place, the retention of a 2.1 metres high wooden boundary fence at first floor level separating 155 and

156 Parnell Street, and the use of the flat roof at first floor level to the rear of the building as a terrace of approximately 74 square metres accessed via an external stairs from the smoking terrace together with all associated landscaping and site works).

Decision

GRANT retention permission for a 35 square metres single storey ground floor extension to the rear of the building 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 retention of roof covering over the smoking area at ground floor facing onto Parnell Place, based on the reasons and considerations marked (2) under. REFUSE permission for the retention of a 2.1 metres high wooden boundary fence at first floor level separating 155 and 156 Parnell Street, and the use of the flat roof at first floor level to the rear of the building as a terrace of approximately 74 square metres accessed via an external stairs from the smoking terrace together with all associated landscaping and site works based on the reasons and considerations marked (3) 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 city centre location of the site, its established use, and the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the single-storey extension proposed for retention would not seriously injure the residential amenities of the area. The development proposed for retention is, therefore, in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application.

Reason: In the interest of clarity.

2. 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.

3. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme (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.

Reasons and Considerations (2)

In relation to the proposed retention of roof covering over the smoking area at ground floor facing onto Parnell Place, having regard to the proximity of the ground floor level smoking area to existing and permitted residential properties, and the intensification of the use of this space which would arise on foot of its enclosure, the Board is not satisfied based on the evidence

submitted with the planning application and the appeal, that the retained roof covering would not seriously injure the residential amenities of properties in the vicinity by reason of noise impacts. The development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.

Reasons and Considerations (3)

In relation to the proposed retention of a 2.1 metres high wooden boundary fence at first floor level separating 155 and 156 Parnell Street, and the proposed use of the flat roof at first floor level to the rear of the building as a terrace of approximately 74 square metres accessed via an external stairs from the smoking terrace together with all associated landscaping and site works, having regard to the outdoor nature of the first floor level terrace and its scale and proximity to residential properties, it is considered that the development proposed for retention and the proposed development would seriously injure the residential amenities of property in the vicinity by reason of noise and general disturbance and the impact of overlooking. The development proposed for retention and 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 day of 2021