

An
Bord
Pleanála

Board Order
ABP-309667-21

Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Planning Register Reference Number: 3619/20

Appeal by the Garden Terrace Residents' Committee care of Paul Mullin of 3 Garden Terrace, Upper Clanbrassil Street, Dublin and by others against the decision made on the 19th day of February, 2021 by Dublin City Council to grant subject to conditions a permission to Clopen Limited care of Simon Clear and Associates of 3 Terenure Road West, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: The development will consist of:- 1.) the demolition of existing buildings, structures and hardstanding areas on site except for the existing front part of the two-storey take-away restaurant building (vacant) at 39 Clanbrassil Street Upper; 2.) the construction of a mixed-use development of 28 number apartments with associated balconies/terraces comprising 17 number one bedroom units, 11 number two bedroom units and two number commercial units located in two number blocks (Block 1 and Block 2); 3.) Block 1 comprises a part two/part two-storey plus pitched roof building at 39 Clanbrassil Street Upper accommodating one number take-away restaurant unit at ground and first floor level (including existing structure fronting onto Clanbrassil Street Upper) and four number apartments (four number two

bedroom two-storey own door duplex apartment units) extending along Orr's Terrace; 4.) Block 2 comprises a three to four-storey building at 40, 41, 42 and 42A Clanbrassil Street Upper accommodating one number shop/retail services unit at ground floor level (fronting onto Clanbrassil Street Upper) and 24 number apartments (17 number one bedroom units and seven number two bedroom units); 5.) landscaped courtyard at ground floor level and roof terrace above third floor level in Block 2; 6.) construction of new surface finishes and hard and soft landscaping to increased width Garden Terrace pedestrian laneway to the north; 7.) all ancillary site development works, plant areas, refuse storage areas, bicycle storage areas, boundary treatment works and services; all at site at 39, 40, 41, 42 and 42A, Clanbrassil Street Upper, 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 Dublin City Development Plan, 2016-2022 according to which the site is located within an area subject to the zoning objective Z1: "To

protect, provide and improve residential amenities”, to the location within the central city area, to the configuration of the site and to the established pattern and character and range and nature of use of the existing development in the surrounding area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities and character of the surrounding historic built environment or the residential amenities of the single storey cottages along Garden Terrace to the north, or the properties on Longwood Avenue to the east by reason of overbearing impact, overshadowing or overlooking, would be acceptable in terms of traffic and public safety and convenience 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, as amended by further plans and particulars submitted to the planning authority on the 25th day of January 2021, 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 development shall submit to, and agree in writing with, the planning authority, full details of the proposed retail and restaurant/takeaway uses at ground floor level in Block B and at ground and first floor level at 39 Upper Clanbrassil Street in the proposed development to include measures for control

and management of noise, emissions, supplies and waste storage, hours of operation and signage.

Reason: In the interest of clarity, orderly development and the visual and residential amenities of the area.

3. 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, "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.

Reason: In the interest of sustainable waste management.

4. Site development and building works shall be carried out only between the hours of 0700 and 1900 Mondays to Fridays, between 0800 and 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 the interest of the protection of the residential amenities of property in the area.

5. Details of materials, colours and textures of all external finishes, which shall include the provision of samples for the proposed new roof, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

7. 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.

8. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and visual amenities of the area.

9. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

10. The apartments shall not be used for any short term residential letting.

Reason: In the interest of proper planning and sustainable development.

11. The applicant shall provide a detailed management plan for the ground floor “internal courtyard” and “roof terrace” together with details of specific opening hours for this access. This management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity, orderly development and visual amenity.

12. Prior to commencement of development, the developer shall contact Dublin City Council traffic advisory group and road maintenance services to ascertain their requirements regarding the alterations to Orr’s Terrace and the vehicular access/exit point off Clanbrassil Street Upper. The works shall be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure a satisfactory standard of development.

13. Electric charging facilities shall be provided for cycle parking and proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: In the interest of orderly development and to provide for and/or future proof the development such as would facilitate the use of Electric Cycles.

14. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, no additional development shall take place above roof level, including lift motors, air

handling equipment, storage tanks, ducts or other external plant or the erection of telecommunications equipment other than those already shown on the drawings submitted with the application, unless authorised by a prior grant of planning permission.

Reason In the interest of clarity and visual amenity.

15. Details of the proposed signage, size, materials, method of illumination if any proposed, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and any additional signage shall be the subject of a separate planning application.

Reason: In the interest of visual amenity and residential amenities.

16. Proposals for an estate/street name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

17. 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 development in the interest of residential amenity and orderly development.

18. 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 details of:
- (a) location of the site and materials compound,
 - (b) location of areas for construction site offices and staff facilities,
 - (c) site security fencing and hoardings,
 - (d) timing and routing of construction traffic to and from the construction site and associated directional signage,
 - (e) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
 - (f) mitigation measures for noise, dust and vibration, and monitoring of such levels,
 - (g) containment of all construction-related fuel and oil and, arrangements for storage and removal of construction and demolition waste and measures for management of surface water run-off,



- (h) arrangements to ensure that during the construction and demolition phases, works are in accordance the standards set out in British Standard 5228 'Noise Control on Construction and Open Sites, Part 1. Code of practice for basic information and procedures for noise control, and
- (i) arrangements for management of impacts of demolition and construction on pedestrian facilities and circulation.

A monitoring system and record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

Reason: In the interest of orderly development, amenities, public health and safety, and the proper planning and sustainable development of the area.

- 19. 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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.



20. 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.

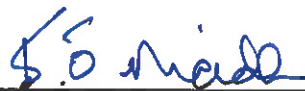
Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

21. 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, 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.

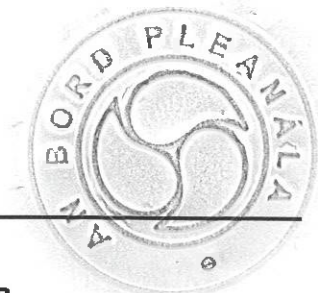
22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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 Ó Niadh

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



Dated this 6th day of August, 2021.