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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 4035/20**

**Appeal** by Carl Egan and Emer Shields care of Anne Marie Sheridan, Planning Consultant of 38 Ormond Road, Rathmines, Dublin against the decision made on the 25<sup>th</sup> day of February 2021 by Dublin City Council in relation to an application for permission for:

1. Subdivision (change of use) of existing two-storey over basement terraced house into two number separate dwelling units: main dwelling reduced to upper ground and first floor three-bedroom unit, with lower ground floor two-bedroom unit ancillary to existing dwelling; both with own door access from front;
2. Alterations to existing openings to front façade (lower ground floor) and rear façade (upper ground floor);
3. Alterations to modern lower ground floor extension to rear;
4. Construction of new upper ground floor extension to rear, to include terrace and access to rear garden;
5. Demolition of existing mews structure at rear of site;
6. Construction of one number new two-storey two-bedroom detached mews dwelling unit at rear of site, ancillary to existing dwelling, including first floor terrace to south, rooflight to east, and access to rear garden of main house, with own door access via lane shared by residents of Mander's Terrace and 38-40 Charleston Road;

7. Complete with all associated site works and landscaping, to include rainwater harvesting tank, geothermal heat pump and locally adjusted ground levels,

at 2 Mander's Terrace, Ranelagh, Dublin (a Protected Structure) in accordance with the plans and particulars lodged with the said Council (which decision was to:

- (i) grant subject to conditions a permission for (1) Subdivision (change of use) of existing two-storey over basement terraced house into two number separate dwelling units: main dwelling reduced to upper ground and first floor three-bedroom unit, with lower ground floor two-bedroom unit ancillary to existing dwelling; both with own door access from front; (2) Alterations to existing openings to front façade (lower ground floor) and rear façade (upper ground floor); (3) Alterations to modern lower ground floor extension to rear; (4) Construction of new upper ground floor extension to rear, to include terrace and access to rear garden; (5) Demolition of existing mews structure at rear of site and to
- (ii) refuse permission for (6) Construction of one number new two-storey two-bedroom detached mews dwelling unit at rear of site, ancillary to existing dwelling including first floor terrace to south, rooflight to east, and access to rear garden of main house, with own door access via lane shared by residents of Mander's Terrace and 38-40 Charleston Road).

## Decision

**GRANT permission for (1) Subdivision (change of use) of existing two-storey over basement terraced house into two number separate dwelling units; main dwelling reduced to upper ground and first floor three-bedroom unit, with lower ground floor two-bedroom unit ancillary to existing dwelling; both with own door access from front; (2) Alterations to existing openings to front façade (lower ground floor) and rear façade (upper ground floor); (3) Alterations to modern lower ground floor extension to rear; (4) Construction of new upper ground floor extension**

to rear, to include terrace and access to rear garden; (5) Demolition of existing mews structure at rear of site 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 (6) Construction of one number new two-storey two-bedroom detached mews dwelling unit at rear of site, ancillary to existing dwelling including first floor terrace to south, rooflight to east, and access to rear garden of main house, with own door access via lane shared by residents of Mander's Terrace and 38-40 Charleston Road 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 Protected Structure status of 2 Mander's Terrace and to the residential zoning provisions of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development, would not adversely affect the character and setting of the Protected Structure, would provide a satisfactory level of residential amenity for future occupants and would not seriously injure the visual and residential amenities of properties in the area. 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, 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 existing dwelling to be subdivided shall be jointly occupied as a single-family residential unit and no element of the development hereby permitted shall be sold, let or otherwise transferred or conveyed to a third-party, save as part of the entire dwelling site, unless otherwise authorised by a prior grant of planning permission.

**Reason:** To restrict the use of the extension in the interest of residential amenity and orderly development.

3.
  - (a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and façades structure and/or fabric.
  - (b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts,



Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

- (c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.
- (d) All existing historic boundary walls shall be retained. Prior to the commencement of any development on site, a full assessment of the historic boundary walls of the site, including a photographic record, prepared by a suitably qualified conservation expert, shall be submitted to and agreed in writing by the planning authority.

**Reason:** To ensure that the integrity and special characteristics of this protected structure are maintained and protected and that the structures are protected from unnecessary damage or loss of fabric.

- 4. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.



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. 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.

7. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

8. Site development and building works shall be carried out only between the hours of 0800 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.

9. 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.

## Reasons and Considerations (2)

Having regard to the restricted access and the narrow width of the existing laneway and notwithstanding the proposed ancillary nature of the proposed mews dwelling, the Board was not satisfied that the mews building could be safely and conveniently accessed for essential and emergency services. The Board considered that the proposed development would not provide a satisfactory level of residential amenity to prospective occupants and would therefore seriously injure the residential amenities of property in the vicinity. The proposed development was therefore, not in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board noted the proposed ancillary nature of the mews development and did not consider that the criteria for mews buildings in the Dublin City Development Plan 2016-2022 were pertinent to the proposed development. However, the Board noted the restricted access and narrowness of the mews laneway and had concerns that the proposed dwelling could not be safely and conveniently accessed for essential and emergency services. The Board was not satisfied that the mews dwelling would provide a satisfactory level of residential amenity for future occupants. The proposed mews dwelling was, therefore, not in accordance with the proper planning and sustainable development of the area.

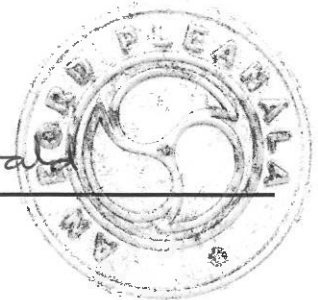
*DR. Maria FitzGerald*

**Maria FitzGerald**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board**



Dated this 3<sup>rd</sup> day of Septem<sup>r</sup> 2021