

Planning and Development Acts 2000 to 2021

Planning Authority: Dublin City Council

Planning Register Reference Number: 3462/21

Appeal by Liam Smyth care of RW Nowlan and Associates of 37 Lower Baggot Street, Dublin and by Suzanne Kenny care of RW Nowlan and Associates of 37 Lower Baggot Street, Dublin and by Seabren Developments Limited care of Doyle Kent Planning Partnership Limited of 71 Carysfort Avenue, Blackrock, County Dublin against the decision made on the 7th day of January, 2022 by Dublin City Council to grant subject to conditions a permission to Seabren Developments Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of a residential development of eight houses to the rear of Numbers 120, 122 and 124 Merrion Road. The new development will be accessed from a new vehicular entrance to 122 Merrion Road, from Merrion Road, the existing vehicular entrance will be blocked up and Number 122 Merrion Road will be altered to accommodate a new shared vehicular entrance to 122 Merrion Road and the eight number new houses. The development works at Number 122 Merrion Road, includes two-storey demolition to the side and single storey demolition to the rear, remodelling of the house, two-storey bay window to the front, repositioning of front door, a two-storey rear and part side extension, single

storey side extension, new dormer to the rear and all associated elevational alterations. The development includes works to the front boundary wall to Number 122 Merrion Road, together with reconfiguration of the site boundaries of Numbers 120, 122 and 124, which will result in a reduction in the existing rear gardens of Numbers 120, 122 and 124 Merrion Road.

The eight number three-storey houses (four-bedroom houses with roof terrace) are set out in two terraces with rear gardens. The existing entrances and parking to Numbers 120 and 124 remain unchanged and two parking spaces are provided for Number 122 Merrion Road. 10 parking spaces are provided for the eight houses, one space per house and two communal visitor spaces, together with a shared surface access road, four visitor bicycle spaces and a seating area. Each of the houses will have a bin store to the front and a cycle store to the rear. The development provides for a pedestrian/cycle access to each of the proposed houses, along the existing gated laneway located to the rear of the site on Shrewsbury Park, which will be resurfaced with gravel and paving. The development includes all associated site development and excavation works above and below ground, drainage and landscaping to facilitate the development on the overall site, all at 120, 122 and 124 Merrion Road, Dublin and the laneway to the rear on Shrewsbury Park, 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.

Reasons and Considerations

Having regard to the pattern and character of existing development in the area, the design and scale of the proposed development, and the provisions of the Dublin City Development Plan 2022-2028 including policy objectives QHSN6, QHSN10 and QHSN04 and Section 15.5.2 (Infill Development), it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, would provide an acceptable standard of residential amenity for the prospective residents, would not seriously injure the residential amenity of surrounding properties, and would not endanger public safety or convenience by reason of traffic generation or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board agreed with the Inspector and the planning authority that the perimeter walls of the second floor terraces of house number 1 and house number 8 should be solid block walls, to protect the amenity of adjoining property.

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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 to the planning authority on the 3rd day of December, 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. The side perimeter walls (that is, the north-west and south-east facing elevations) of the second-floor terraces of house numbers 1 and 8 shall be of solid brick construction.

Reason: In the interest of the residential amenity of the adjoining properties.

3. Access to the ground and first floor level roofs of the proposed units shall only be permitted for necessary maintenance of the roof or windows and shall not be used for amenity purposes without a separate grant of permission.

Reason: To protect the residential amenities of adjoining residential properties and to protect the visual amenities of the area.

4. (1) Vehicular access or car storage shall not be permitted on the laneway to the north of the site. Laneway access shall be restricted to pedestrian, cyclist or maintenance access for the development. Existing vehicular access to adjacent dwellings off the laneway shall be maintained.
- (2) At the vehicular access point to the development on Merrion Road, the public footpath shall be continued at a raised level across the site entrance and exit but shall be ramped and dropped as necessary to facilitate car entry/exit. Measures shall be implemented including contrasting materials, signing and road markings to ensure that vehicles entering/leaving the development are aware that pedestrians/cyclists have priority across the site entrance and that vehicles must yield right-of way. Details of the proposed entrance arrangements shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (3) One car parking space shall be permanently allocated to each residential unit and numbered as such. Car parking spaces shall not be sold, rented or otherwise sub-let or leased to other parties.
- (4) All of the in-curtilage car parking spaces serving the residential units shall be provided with electric connections to the exterior of the houses to allow for the provisions of future electric vehicle charging points. Details of how it is proposed to comply 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 traffic safety and sustainable transportation.

5. The landscape scheme accompanying the application shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. (The landscape scheme shall have regard to the Guidelines for Open Space Development and Taking in Charge, copies of which are available from the Parks and Landscape Services Division of the planning authority).

Reason: In the interests of amenity, ecology and sustainable development.

6. Details of the materials, colours and textures of all the 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.

7. Drainage arrangements, including the 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. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann, formerly Irish Water.

Reason: In the interest of public health.

9. Proposals for a development name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and house numbers shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. 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 and to ensure the use of locally appropriate place names for new residential areas.

10. 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 interest of public safety.

11. All service cables associated with the proposed development (such as electrical, telecommunications 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.

12. The management and maintenance of the proposed shared carriageway following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for its future maintenance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

13. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, 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 subject to the prior written agreement of the planning authority.

Reason: In the interests of residential amenities of surrounding properties and of clarity.

14. 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 management measures for noise, dust and dirt, construction traffic management proposals, and details of how the trees on the public realm corner of Merrion Road and Ballsbridge Park/Avenue will be protected during the construction of the project.

Reason: In the interest of public safety and residential amenity.

15. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

16. 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.

17. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

18. 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 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 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 of the development.

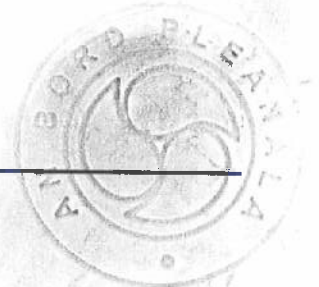
19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the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



Mary Henchy

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



Dated this *18* day of *May* 2023.