



An
Coimisiún
Pleanála

Commission Order
ABP-321319-24

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 4244/24.

Appeal by Aidan Kelly care of Jakkulla Architecture and Design of 56A Ramleh Park, Milltown, Dublin against the decision made on the 30th day of October, 2024 by Dublin City Council to refuse permission for the proposed development.

Proposed Development: Protected Structure: Brownfield site to rear of protected structure. The development will consist of the demolition of the existing single-storey commercial buildings, and the construction of a terrace of four number two-bedroom dwellings with a study, part two-storey and part three-storey with Velux rooflights. The terrace has a maximum parapet height of 7.1 metres with set-backs to the upper level on Bannaville. The provision of private open space is accommodated for each dwelling at three levels with privacy screens, one number vehicular parking, bicycle spaces, bin storage is located within front curtilage of each dwelling. All with associated site and landscaping works, all at Kelly's Garage, 13A Mount Pleasant Avenue Lower, Dublin.

Decision

GRANT permission/outline 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 condition(s) set out below.

Reasons and Considerations

Having regard to the Z2 zoning objective of the site which seeks 'To protect and/or improve the amenities of residential conservation areas', to the planning policies, objectives and development standards of the Dublin City Development Plan 2022-2028, to the existing garage structure on site that would be demolished and to nature, scale and design of the proposed development and the existing pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and is supported by policy at national, regional and local levels including contributing positively to compact growth and urban consolidation. The Commission was also satisfied that, subject to compliance with the conditions hereby attached, the proposed development would not give rise to a traffic hazard, would be acceptable in terms of protecting adjoining amenities of the residential conservation area and would not seriously injure the protected structures or the architectural heritage of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommended refusal reason number one, the Commission considered that the amended scheme submitted with the grounds of appeal showed due regard to the architectural heritage of the area, by reason of the reduction in height and scale of the proposed development as it neared the row of protected structures along Mountpleasant

Avenue Lower. The Commission considered that, although the development is contemporary in its idiom, the design complements, and is sympathetic to, the neighbouring protected structures. Furthermore, the Commission considered that the removal of the existing 1960's commercial/industrial garage of little architectural value and its replacement with a row of townhouses of architectural design merit constitutes a significant improvement to the urban streetscape at this location with a consequential benefit arising for this Z2 residential conservation area.

In respect of the Inspector's recommended refusal reason number two, the Commission noted that the original proposal, as submitted in the application, sought to obviate undue overlooking of neighbouring properties through a number of design interventions, including screen walls along the first-floor terraces, and the omission of transparent windows in the northern elevation at second floor level. Further amendments were proposed in the revised scheme submitted with the grounds of appeal, proposing the omission of the 2nd floor level in unit number 1, the removal of a first-floor terrace to this unit, and provision of an increase in separation distances between this unit and neighbouring property. The Commission considered that, on balance, the proposed development represents a significant positive visual impact for the area with the removal of the existing garage structure of little design quality on the site and its replacement with a row of townhouses of architectural design merit. Overall, the Commission was satisfied that, given the modest scale and form of the development and the adequate separation distances and the urban infill context and the design that would avoid any direct overlooking, the proposed development would not reasonably constitute overdevelopment or be overbearing on adjoining sites and accordingly the commission reached a different conclusion to the inspector in this regard.

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 received by the Commission on the 25th day of November 2024 with the grounds of appeal, 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 car port and in-curtilage parking shall be omitted from unit number four, and the area shall be for the use of private amenity only. Details, including drawings, demonstrating compliance with same, shall be submitted to the planning authority prior to commencement of development.

Reason: In the interest of traffic safety and safety of pedestrians and vulnerable road users.

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

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

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4. Prior to the commencement of development, the developer shall enter into a Connection Agreement(s) with Uisce Éireann to provide for a service connection(s) to the public water supply and/ or wastewater collection network.

Reason: In the interest of public health.

5. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of sustainable drainage.

6. A Construction Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The CEMP shall provide, but not be limited to, construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of environmental protection, residential amenities, public health and safety and environmental protection.

7. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency'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 file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to 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.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

9. Site development and building works shall be carried out 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 shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

10. Proposals for an estate name/ house 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 orderly development and urban legibility.

11. Each of residential units 1 to 3 inclusive shall be provided with electric connections to the exterior of the houses to allow for the provision 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 interest of sustainable transportation.

12. The management and maintenance of the proposed development, following its completion, shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

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13. 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 (or the responsibility for same has been transferred to a legally constituted management company) of roads, footpaths, watermains, drains, public 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 Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development.

14. 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 Coimisiún 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.

Patricia Calleary

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Planning Commissioner of An Coimisiún

**Pleanála duly authorised to authenticate
the seal of the Commission.**

Dated this *04* day of *July* 2025.

