

An
Bord
Pleanála

Board Order
ABP-321616-25

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 3935/24

Appeal by Aoife Carroll care of Declan Brassil and Company Limited of Lincoln House, Phoenix Street, Smithfield, Dublin against the decision made on the 6th day of December 2024 by Dublin City Council to grant permission, subject to conditions, to Neustadt Management Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin for the proposed development.

Proposed Development: (i) Removal of existing fence on site and partial removal of existing boundary walls to Rathdown Road and the adjoining unnamed laneway, (ii) construction of a part single, part three-storey, four-bedroom, flat roofed detached dwelling served by private amenity space, in the form of garden space to the front and rear at ground floor level and an external terrace off the south elevation and first floor level, (iii) provision of one number rooflight and two number new pedestrian entrances to the front and rear via Rathdown Road and the adjoining unnamed laneway respectively and (iv) all ancillary works, inclusive of landscaping, boundary treatments and drainage, necessary to facilitate the development on a 0.0168 hectare site to the immediate south of 71 Rathdown Road, Dublin.

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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 provisions of the Dublin City Development Plan 2022-2028, including the Z1 zoning objective for the area, the pattern of development in the area, the prominent corner location and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of neighbouring dwellings or the visual amenities of the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, while the Board agreed with the Inspector that the proposal would not have a negative impact on residential amenity in terms of overlooking and overshadowing of adjoining houses and that it would yield a satisfactory level of amenity for future residents, it did not agree with the Inspector's opinion that the sloped roof on the northern side of the proposal compromises the integrity of the contemporary design, resulting in an unsuccessful transition between the traditional character of the area to the north and the emerging pattern of development to the south, east and west. The Board agreed with the planning authority that the amendments made to reduce the height to the northern elevation successfully respond to the context of the site to the north as detailed in drawing numbers FI01 and FI02, the architectural typologies and 3-d views presented in the appeal documentation and with reference to the adjacent sloped roof of the student housing to the east.

In this case the net issue is the visual impact on the streetscape and the impact on the character of the existing developments particularly in the immediate vicinity to the north of the site. The Board determined that the proposed development can be successfully integrated into the streetscape without adverse impact due to the transitional nature of the site, the open setting and larger scale public buildings to the south, the scale and height of Highfield House student housing to the east, the physical separation of the site from the traditional Victorian terrace on Rathdown Road, the sloped roof profile providing a progressive transition from the two storey dwelling (number 71 Rathdown Road) to the north, the modest increase in height at a prominent corner site, the rising typography of the street from south to north, and the selection and articulation of the brickwork which will provide a level of visual harmony to the surrounding area.

The Board considered the wording of the Dublin City Development Plan 2022-2028 zoning objective Z1, development plan standards 15.5.2 and 15.5.3 and determined conclusively that no material contravention of these will arise. These objectives and standards, which are considered reasonable, are general in wording and allow for an overall judgement to be made on the balance of evidence. In this case the Board determined that the proposed development can be successfully integrated into its surroundings without adverse impact as outlined above.

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 planning authority on the 13th day of November 2024, 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. Details of the materials, colours and textures of all the external finishes, including the boundary walls and bin storage area shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The brick colour and texture to be used shall be as close as possible as that used in the Victorian terrace on Rathdown Road.

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

3. The 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: To prevent flooding and in the interests of sustainable drainage.



4. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
- (b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health.

5. Prior to the commencement of development, the developer shall enter into a Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.

Reason: In the interest of public health and to ensure adequate water and wastewater facilities.

6. Four number safe and secure bicycle parking spaces shall be provided within the site. Provision should be made for a mix of bicycle types including cargo bicycles and individual lockers. Details of the layout and marking demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

7. The perimeter of the first-floor terrace shall be screened to a minimum of 1.5 metres, in height, above terrace level. Details shall be submitted to,

and agreed in writing with, the planning authority prior to commencement.

Reason: In the interest of residential and visual amenity.

8. 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.

Reason: In the interest of visual and residential amenity.

9. The developer shall engage a suitably qualified archaeologist to carry out an Archaeological Impact Assessment (AIA) following consultation with the Local Authority Archaeologist in advance of any site preparation works and groundworks, including site investigation works/topsoil stripping/site clearance/dredging and/or construction works. The archaeologist shall prepare a comprehensive report, including an archaeological impact statement and mitigation strategy, to be submitted for the written agreement of the planning authority in advance of any site preparation works, groundworks or construction works. Where archaeological remains are shown to be present, preservation in-situ, establishment of 'buffer zones', preservation by record (archaeological excavation) or archaeological monitoring may be required and mitigatory measures to ensure the preservation and/or recording of archaeological remains shall be included in the AIA. Any further archaeological mitigation requirements specified by the Local Authority Archaeologist, following consultation with the National Monuments Service, shall be complied with by the developer. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological

work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation, either in situ or by record, of places, caves, sites, features or other objects of archaeological interest.

10. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and amenity.

11. Site development and building works shall be carried out between the hours of 0700 to 1900 hours Mondays to Fridays inclusive, between 0800 to 1300 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: To safeguard the amenity of property in the vicinity.

12. Noise monitoring locations for the purposes of the construction phase of the proposed development shall be agreed in writing with the planning authority prior to commencement of any development on site.

Reason: To protect the amenities of property in the vicinity.


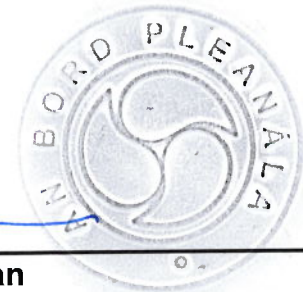
13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the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

14. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Cross City Scheme 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.

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

Dated this 12th day of May 2025.