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Pleanála

## Inspector's Report ABP 311069-21

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<b>Development</b>	Amendments to building permitted under ref. 2449/20
<b>Location</b>	7 Seapoint Terrace, Strand Street, Irishtown, Dublin 4.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2788/21
<b>Applicant</b>	Anne Parsons
<b>Type of Application</b>	Retention Permission & Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Appellants</b>	Moya Nolan & Michael McGuill
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23/03/22
<b>Inspector</b>	Pauline Fitzpatrick

## **1.0 Site Location and Description**

No. 7 Seapoint Terrace is an end of terrace two storey over basement structure on Strand Street in Irishtown, Dublin 4. The area is largely characterised by a mix of housing comprising of older, terraced streets interspersed with infill schemes.

Ringsend Park is to the north.

The building is currently being developed for a yoga centre with the 1<sup>st</sup> floor to be retained in residential use. No. 6 Seapoint Terrace is in single residential use. The site is to the rear of a number of dwellings that front onto the car park serving the park to the east.

## **2.0 Proposed Development**

The proposal entails permission to retain and complete amendments to an approved development permitted under ref. 2791/19 as amended by permission ref. 2449/20.

The amendments are:

- Internal rearrangement of basement area to provide stair access to the main hallway and corresponding changes to the ground floor area.
- Additional 2.2 m<sup>3</sup> of excavation to accommodate stairs
- Rearrangement of ground floor juice bar seating area and services arising from the stairs and lift.
- 3.5 sq.m. increase in glazing to rear (courtyard) elevation.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Grant permission for the above described development subject to 6 conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- The principle of development has already been granted under the parent permission and this application is for minor amendments.
- The required excavation will not impact on the neighbouring property.
- The works are considered reasonable and will not negatively impact on the property itself or neighbouring properties.

A grant of permission subject to conditions recommended.

#### **3.2.2. Other Technical Reports**

Engineering Department – Drainage Division has no objection.

### **3.3. Prescribed Bodies**

None.

### **3.4. Third Party Observations**

An objection to the proposal received by the planning authority is on file for the Board's information. The issues raised relate to erection of public notices, drainage, impact of site excavation, extent of works carried out and accuracy of drawings.

## **4.0 Planning History**

2791/19 – permission granted in January 2020 for conversion and change of use of basement and ground floor to yoga facility, maintenance of 1<sup>st</sup> floor residential unit, demolition of existing sheds to the rear and construction of new single storey yoga studio structure and courtyard garden and new single storey extension to side.

ABP 305425-19 – appeal against financial contribution condition attached to the above decision.

2449/20 – permission granted September 2020 for amendments to previously permitted development including addition of external insulated render system to house, removal of chimneys to east elevation, alterations to internal layout of

1<sup>st</sup> floor apartment and ground floor reception area, enlargement of ground floor front window, removal of external stairs from basement and internal changes to basement area and amendments to yoga studio roof and additional PV array.

Condition 2: Conditions of permission 2791/19 to be complied with in full save for changes to plans permitted under this permission.

Condition 3: Permission not to be construed as approving the rear and side extension at basement level shown on the plans, particulars and specifications, the nature and extent of which has not been adequately stated in the public notices. The developer to submit revised plans reflecting the extent of the permission permitted within 20 working days from the date of the final grant of permission. 'In the interests of clarity' was cited as reason for the condition

LV29S.307937 – leave to appeal the above permission refused.

## **5.0 Policy Context**

### **5.1. Development Plan**

Dublin City Development Plan 2016.

The site is within an area zoned Z2 the objective for which is to provide and/or improve the amenities of residential conservation areas.

### **5.2. Natural Heritage Designations**

None in the vicinity.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The 3<sup>rd</sup> Party appeal which sets out the planning history on the site can be summarised as follows:

- The length of the rear extension is significantly longer than that originally permitted under ref. 2791/19.

- The works will provide for a bigger and taller building.
- Condition 3 of 2449/20 requires the basement area in the rear and side extension to be omitted. This should remain the case.
- The 3.5 sq.m. of additional glazing on the rear façade will result in further loss of privacy and will impact further on their residential amenities. This conflicts with section 16.10.12 of the City Development Plan pertaining to extensions and alterations.
- The rear stairs proposed will have what is, in effect, a raised platform view into their garden and dwelling. The privacy fins indicated are completely vague and are an inadequate solution in the protection of their privacy.
- The drawings submitted are inaccurate in that they indicate the maintenance of elements of the original house which have been demolished – the roof, floor plates, rear wall at 1<sup>st</sup> floor level, the vast majority of the gable wall at ground and 1<sup>st</sup> floor level, all stairs, internal walls and chimney stacks. Some of these elements were subsequently rebuilt as completely new and are entirely recognisable as new.

## 6.2. Applicant Response

The response which sets out the planning history on the site can be summarised as follows:

- The lower ground floor plan granted permission under ref. 2449/20 comprised primarily of changing rooms with ancillary facilities. Access thereto from the ground floor was to be provided by a staircase which was to be along the western side wall. The proposed location of the stairs was determined to be unacceptable under the Fire Escape Regulations as it is required to provide direct access to the main hallway at ground floor level. This necessitated its relocation to an area adjacent to the north-eastern corner of the lower ground floor (basement) where an area of 2.2 cubic metres is required to be excavated to allow for its provision. This area is 5 metres from the boundary with the appellants' property and 3 metres from the adjoining boundary to the

east. The relocation of the staircase also involved the reconfiguration of the layout of the male and female dressing room facilities.

- The nature and depth of the excavation required, having regard to its limited size and scale and its distance from the boundaries of adjacent properties, will have no material impact on No.6.
- Condition 3 attached to the previous permission stated that given the nature and extent of the rear and side extensions shown at basement level on the lodged plans were not adequately described in the public notices, they were not approved under the terms of the permission. It does not constitute a prohibition on any further development at lower ground floor level. A grant of permission would not be in conflict with the condition.
- The ground floor for which permission is now being sought includes the provision of an extra toilet, a reduction in the juice bar area, provision of the new staircase from the lower ground floor and a Part M lift and a revised stair access. The works are minor.
- The additional 3.5 sq.m. of glazing to the courtyard is to the lower section of the elevation replacing an area which was to be finished in cement board with acrylic render. It will be below the top of the boundary wall with the appellants' property. It will not result in overlooking of their property.
- With respect to overlooking the development as permitted provides for the erection of vertical privacy louvres for a distance of 1.9 metres from the western edge of the window serving the juice bar. This will screen the appellants' garden from overlooking as the louvres will deflect views in a north-easterly direction towards the yoga studio. The proposal involving a reduction in the juice bar means that the greater part of the window serving the modified version of the bar will be screened by the vertical privacy louvres.
- Overlooking from the circulation area to the lift and staircase is directed towards the courtyard and yoga studio. Having regard to its function it would be significantly less than that which might be associated with the juice bar which is already the permitted use of this area.

### 6.3. Planning Authority Response

None.

### 6.4. Observations

None.

## 7.0 Assessment

At the outset I submit that the manner by which the previous applications on the site were assessed by the planning authority is not before the Board for comment. I also submit that the principle of the development entailing a mix of commercial and residential, including new build, has been adjudicated to be acceptable in principle.

Permission was granted under planning reference 2791/19 for change of use of the lower ground floor and 1<sup>st</sup> floor of the building to a yoga facility with a yoga studio to be constructed to the rear. The existing one bedroom apartment at 1<sup>st</sup> floor level is to be retained. Amendments to the permitted development was granted under planning reference 2449/20 including removal of the external stairs from the basement and internal changes to the basement area, changes to internal layouts at ground and 1<sup>st</sup> floor levels, enlargement of ground floor front window, amendments to yoga studio roofs, removal of chimneys to east elevation and external insulation to the building. The nature and extent of the development, as amended by the latter permission, is that to which regard is required to be had.

Arising from the requirements of Parts B (Fire Safety) and M (Access) of the Building Regulations the following amendments are proposed for which retention permission and permission to complete are sought:

#### Lower Ground Floor

- 2.2 m<sup>3</sup> additional excavation to north-eastern corner of the building to allow for a lift core and stairwell required for compliance with Part M
- Rearrangement of changing room facilities.

#### Ground Floor

- No changes to the footprint of the development

- Alterations to the rear of the building providing for the lift core and stairwell. This results in the reduction in the area of the juice bar.
- Alterations to the northern elevation treatment including additional glazing.

I note that no changes are proposed to the footprint of the extension to the rear, to the apartment at 1<sup>st</sup> floor level or to the yoga studios permitted to the rear of the site.

The appellants consider that the works will adversely impact their residential amenities.

In terms of the increase in basement level the appellants contend that the proposal contravenes condition 3 attached to permission 2449/20. I would concur with the agent for the applicant's understanding of the condition in that as the nature and extent of the rear and side extensions shown at basement level on the plans accompanying the application were not adequately described in the public notices, they were not approved under the terms of the permission. This does not constitute a prohibition on any further development at lower ground floor level. The works subject of this application equate to an area of 2.2m<sup>3</sup> so as to allow for the lift core and stairs. It is to the north-eastern most corner of the building c. 5 metres from the boundary with the appellants' property. I consider that the extent of the excavation is small and would not adversely impact on the amenities of adjoining property.

As permitted the juice bar would extend the full width of the property save for the stairs. The works now required to meet the building regulations results in a material reduction in its size resulting in a layout not dissimilar to that originally proposed under file ref. 2449/20 but which was required to be altered arising from condition 3 above. The northern elevation treatment is modified from that permitted with an additional 3.5m<sup>2</sup> of glazing to the stair core, again comparable to that originally proposed under file ref. 2449/20. This glazing is below the level of the top of the boundary wall and overlooking of the appellants' property from same will not be possible. The elevational treatment to the juice bar in proximity to the appellants' boundary is not being altered from that permitted and comprises glazing with vertical privacy louvres. I submit that the elevational changes relative to that already permitted would not result in an increase in overlooking or loss of privacy.

In conclusion the proposed amendments to be retained and completed are minor in extent and will not have an adverse impact on the amenities of adjoining property.



### *Appropriate Assessment – Screening*

Having regard to the location of the site and the nature and scale of the development to be retained and completed it is concluded no appropriate assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

Having regard to the foregoing I recommend that retention permission and permission be granted for the above described development for the following reasons and considerations subject to conditions.

## **9.0 Reasons and Considerations**

Having regard to the planning history on the site and the nature and extent of the works to be retained and completed, it is considered that the development, subject to compliance with the conditions set out below, would not seriously injure the amenities of area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application and shall otherwise comply with the conditions of planning permission register reference number 2791/19 as amended by the conditions of planning permission register number 2449/20.

**Reason:** In the interest of clarity.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**March, 2022**