

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2007

Dublin City

Planning Register Reference Number: 1780/08

An Bord Pleanála Reference Number: PL 29N.230405

APPEAL by John Collins and Fergal Collins care of 20 Manor Street, Dublin against the decision made on the 11th day of July, 2008 by Dublin City Council to grant subject to conditions a permission to Jimmy McLoughlin care of Gareth Brennan of 74 Leinster Avenue, North Strand, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Demolition of existing two-storey building and construction of a new three-storey building comprising a restaurant at ground floor level with two number one-bedroom apartments over, each with own private balcony all at 68 Prussia Street, Dublin (corner of Saint Joseph's Road).

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.

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

Having regard to the Z2 zoning of the site and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not have an unacceptable impact on the adjacent protected structure, 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, the Board had regard to the existing development in the area, and concurred with the planning authority that there is a planning gain in relation to this small scale development on a derelict site at a nodal and visually exposed position. The Board considered that the remaining concerns about the construction could be dealt with by condition.

CONDITIONS

1. (a) The development shall be carried out 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 16th day of June, 2008, except as may otherwise be required in order to comply with the following conditions.
- (b) No work shall commence on site until a method statement from a suitably qualified engineer with professional indemnity insurance in place has been submitted to and agreed in writing with the planning authority together with additional drawings showing accommodation of any water tanks within the buildings on site.

Reason: In the interest of clarity, orderly development and the visual and other amenities of the area.

2. Prior to commencement of development, details of the materials, colours and textures of all the external finishes (including sample panels for the stone and brickwork) to the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

3. Water supply and 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 and to ensure a proper standard of development.

4. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

5. The developer shall facilitate the planning authority in the archaeological appraisal of the site and in preserving and recording or otherwise protecting archaeological materials or features which may exist within the site. In this regard, the developer shall:-
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

Prior to commencement of development, a report containing the results of the assessment shall be submitted to the planning authority. Arising from this assessment, the developer shall agree with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to the Board for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.

6. 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 social and affordable housing in accordance with the requirements of section 96 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 (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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.

7. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

8. The developer shall pay to the planning authority a financial contribution in respect of all new developments in the Metro North Area 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

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

Dated this day of 2009.