



An
Bord
Pleanála

Inspector's Report

ABP-305330-19

Development	Demolition of dwelling and outhouses and construction of 3 terraced , two storey, houses .
Location	22A Palmerston Park and Richmond Avenue South, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4626/18
Applicant(s)	The Leahy Trust
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Richview Residents Association Mr Kevin O Driscoll Mr Walter Beatty.
Observer(s)	None.
Date of Site Inspection	25 th October 2019.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 1,111sq.m is located at the junction of Palmerston Park and Richmond Avenue South in Dublin 6. To the east of the site is a two-storey brick house (Les Buissonnets) while Richview House Protected Structure (RPS 8758) in Regency style adjoins to the south. The site is bordered by high walling adjacent to the public roads to the north and west. To the west across the road are the substantial three storey over basement dwellings fronting Palmerstown Park.
- 1.2. The appeal site is occupied by a single storey bungalow type dwelling 255sq.m and associated outbuildings dating from the 1940s or 1950s and subsequently extended in an ad hoc manner. The existing site has two access points main one from Palmerston Park with secondary access from Richmond Avenue south. The appeal site is heavily vegetated in keeping with the leafy character of the area.

2.0 Proposed Development

- 2.1. The proposal involves permission for demolition of the existing single storey dwelling and outhouses on site and construction of 3 no terraced, two storey, four bed houses (225sq.m each) with attics including 3 no rooflights to house 1, 5 no rooflights to houses 2 and 3 and PV panels to each house. The development provides 6 no surface parking spaces and 6 no cycle spaces and includes associated service connections, site works and landscaping. Vehicular and pedestrian access is proposed to each house from Richmond Avenue with a shared pedestrian gate onto Palmerston Park in the position of the current main gate.
- 2.2. Architectural Report by Ruth Stewart outlines the evolution of the design strategy. The proposed houses are oriented north south and are stepped to the front and rear. Ground floor is recessed and angled at the entrances. Finish is proposed in brick cladding with timber windows and slate roof. Deep decorative tiled reveals to the set back front doors and expressed concrete lintel provide contemporary expressions of traditional detailing.
- 2.3. Following a request for additional information by Dublin City Council a revision was made to the proposal providing for a cranked boundary with cut or insets into the

northern part of the site and altered gate positions. Gates are moved off the road and away from the junction. A portion of the boundary wall is to be lowered to provide a low planter on the north-westerly corner of the site. It is proposed to retain one existing sycamore tree at the northern corner of the site.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 13/8/2019 Dublin City Council issued notification of the decision to grant permission and 10 largely standard conditions were attached. Condition 2 requires payment of a Development Contribution of €36,288.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Initial Planner's report noted concerns with regard to traffic impact and loss of mature trees on site. Impact on established adjacent residential amenity not considered significant given setback distances. Additional information sought to address the concerns.

Planner's report following submission of further information indicates satisfaction with the proposal and recommends permission subject to conditions.

3.2.2. Other Technical Reports

3.2.2.1 City Archaeologist report notes location close to the zone of Archaeological Constraint for Recorded Monument DU022-081 (battlefield site) which is listed on the Record of Monuments and Places and subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994. Condition regarding notification in the event of discovery of archaeological material recommended.

3.2.2.2 Engineering Department Drainage Division. – No objection subject to developer complying with the Greater Dublin Regional Code of Practice for Drainage Works

Version 6.0. Drainage designed on completely separate foul and surface water system with combined connection discharging to Irish Water's combined sewer system. SUDS measures to be incorporated. Flood risk assessment to be carried out.

3.2.2.3 Roads Streets and Traffic Department Road Planning Division notes serious concerns regarding proposed vehicular entrance in terms of visibility and traffic safety given proximity to the junction, the angle and nature of the junction amplified by the narrowness of the road and the fact the boundary wall precludes visibility. Applicant should explore the option of a shared access or use of the existing access and improvement of visibility at the junction should be addressed. Rationale for overprovision of parking should be provided. Following submission of additional information roads report indicates satisfaction that vehicle tracking demonstration that cars can safely reverse into the parking spaces and exit in a forward motion. No objection subject to conditions including construction management plan.

3.3. **Prescribed Bodies**

3.3.1 No submissions.

3.4. **Third Party Observations**

3.4.1 Submission by Fenton Associates on behalf of Mr Walter Beatty Richview House. No objection in principle. Concerns regarding maintenance of existing residential amenity and privacy. Traffic and construction management. Overlooking of site to the south. Notably trees to the southern boundary are mature tall evergreen trees and under the canopy provide no screening, No landscaping proposals submitted. Reversing cars onto Richmond Avenue will give rise to traffic hazard. A construction management plan is required.

3.4.2 Submission by Diarmuid O Gráda, Planning Consultant on behalf of Mr Kevin O Driscoll, The Cloisters, Richmond Avenue South. Notes limited traffic carrying capacity of both Palmerston Park and Richmond Avenue South. Loss of open aspect and trees will negatively impact on amenity of the streetscape. No objection in principle to however proposal involves excessive scale and is overdevelopment of

the site. Traffic hazard and loss of street parking. Detriment to visual and residential amenity. Proposal should be limited to a replacement dwelling or two dwellings of low profile and served by single access.

3.4.3 Richview Residents Association submission notes location adjacent to Z2 zoning and a number of protected structures. Concern expressed regarding loss of original curtilage wall to Richview House Protected Structure. Traffic hazard and loss of car parking. Construction management plan to require all truck access via Palmerston Park as Milltown Path too narrow and is subject to significant pedestrian movement. A shared access from north east corner to Palmerston Park would be more appropriate.

3.4.4 Gerard Crowley 17 Richview Park. Objects to the proposal on grounds of traffic hazard and disruption. Existing access is preferable.

Removal of trees will be detrimental to the landscape. Multiple uniform houses not considered in keeping with the character of the area.

4.0 Planning History

4.1 No planning history on the site.

0552/18 Exemption Certificate under Section 97 of the Planning and Development Act 2000 as amended.

5.0 Policy and Context

5.1 National Policy

5.1.1 Project Ireland 2040 – National Planning Framework

5.1.2 The National Planning Framework includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to

both existing and proposed developments and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.1.2 S28 Ministerial Guidelines.

- Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities. Department of Environment, Heritage and Local Government, May 2009.
- Urban Design Manual A best practice Guide. May 2009.
- Design Manual for Urban Roads and Streets, DMURS
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') Dept Environment Heritage and Local Government November 2009.
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities – Department of Housing Planning and Local Government March 2018
- Urban Development and Building Height Guidelines, Department of Housing Planning and Local Government, December 2018

5.2 Development Plan

The Dublin City Development Plan 2016-2022 is the operative Plan.

The site is zoned Z1. The objective is “*to protect, provide and improve residential amenities*”

Other relevant policies and standards include:

Section 16.2.1 Design Principles.

Section 16.2.2.2 Infill Development.

Section 16.10.2 & 16.10.3 Residential Quality Standards – Houses.

Section 16.10.9 Corner / Side Garden Sites.

5.3 Natural Heritage Designations

5.3.1 The South Dublin Bay SAC (Site Code 000210) and South Dublin Bay and River Tolka SPA (Site Code 004024) are the nearest Natura sites, located circa 4km distant.

5.4 EIA Screening

5.4.1 Having regard to the nature and scale of the proposed housing development on zoned and serviced land, and to the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 There are three third party appeals by the following

- Richview Residents Association
- Diarmuid Ó Gráda on behalf of Mr Kevin O Driscoll, The Cloisters, Richmond Avenue South.
- Fenton Associates on behalf Mr Walter Beatty, Richview House, Palmerston Park.

6.1.2 Appeals raise common grounds which I have summarised as follows:

- Traffic hazard arising from multiple entrances. Conflict with cyclists and pedestrians.
- Combined single entrance should be provided. Construction access should be from Palmerston Park
- Overprovision of car parking not justified.
- Proposal is inconsistent in its context and would adversely affect the character of the area and curtilage of Richview House.
- Overdevelopment of the site. A replacement house or two would be considered
- Loss of open character and mature trees.
- Removal of heritage wall and adverse impact on the character of the adjacent Z2 conservation area
- Uniform house types out of character and have disruptive impact on streetscape.
- Overlooking. Landscaping details not submitted.

6.2. Applicant Response

6.2.1 The response by RM Stewart, Architect on behalf of the first party is summarised as follows:

- Site has been in the applicant's family for over 40 years. Intention is to build high quality sustainable homes that can adapt to family life over many years and make a positive long-term contribution to the area.
- Increasing density on the site is appropriate and in line with Development Plan objectives.
- Houses are terraced and stepped to reflect the dominant building line and maintain adequate distance from adjacent properties while allowing south-westerly lighting into the living rooms and gardens of the houses.
- Massing and materials considered in relation to the adjacent conservation area.

- Proposal to maintain the large healthy Sycamore tree on the corner in a lowered planter will allow safe access and egress to the houses and improve visibility on the corner of Richmond Avenue South and Palmerston Lane.
- Applicant is committed to greening of the site with broader variety of trees in locations suited to their long-term health growth.
- The loss of two mature trees is necessary to facilitate development due to their positions and root growth. Two other trees are in extremely poor health and removal is required regardless of any development.
- Z2 zoning considered in the design of proposals and choice of materials.
- Site has not been part of the curtilage of Richview House since the 1950s. Many changes have been made to the fabric of the wall which is in poor condition and is visually and materially different to the boundary wall of the protected structure.
- One car space could be omitted from each house to allow space for car to turn fully within the site and emerge without reversing.
- Much garden would be lost if parking and turning were to be provided from Palmerston Park and the use of the southern side of the site for parking is not a sustainable approach.
- Large retained sycamore trees and lower wall on the corner will contribute to the streetscape and visually open up the corner improving the safety for road users.
- No negative impact on residential amenity given that the site is self-contained and distance from properties to north and south exceed minimum requirements.
- Proposals are of an appropriate scale density and materiality for the site which is zoned Z1 and as such meets the objectives of the Dublin City Development Plan.

6.3. **Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

6.4. **Further Responses**

Following cross circulation of appeals a response of Dr Diarmuid Ó Gráda on behalf of Mr Kevin O Driscoll concurs with emphasis on heritage setting and supports the other third-party appeals.

6.5 **Prescribed Bodies**

I note that the Board referred the appeals to a number of prescribed bodies, including An Chomhairle Ealaíon, An Taisce, Development Applications Unit Department of Culture Heritage and the Gaeltacht, Fáilte Ireland and The Heritage Council. No submissions were received.

7.0 **Assessment**

7.1 Having examined the file, considered the prevailing local and national policies, inspected the site and assessed the proposal and all submissions, I consider that the key issues arising in this appeal can be considered under the following broad headings:

Principle of Development

Quality of Design and Layout & Impact on Amenity.

Traffic, Access and Parking

Servicing and Appropriate Assessment

7.2 **Principle of Development**

7.2.1 As regards the principle of development the site is zoned Z1 – the objective “to protect, provide and improve residential amenities”. The site is centrally located within easy walking distance of good quality public transport in an existing serviced area. The proposal seeks to provide for an increased density of residential development on the site (increase from 9 units per hectare units per hectare to 27 units per hectare) in order to expedite the more efficient use of currently underutilised serviced land.

7.2.2 As regards the principle of demolition of the existing dwelling it is of no particular architectural merit is structurally compromised and its demolition is appropriate in the circumstances. I consider that the replacement with a single or even two low rise dwellings is not feasible in terms of achieving a denser infill development form in line with the National Planning Framework with regard to the sustainable development of infill sites. I am of the opinion that given its zoning, the delivery of residential development on this prime underutilised site in a compact form is generally consistent with the policies of the Development Plan the NPF and Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness in this regard. It is therefore appropriate to assess the merits of the proposal in its detail.

7.3 Quality of Design and Layout & Impact on Amenity

7.3.1 As regards the issue of residential amenity of the proposed dwelling units, I note that the floor areas of the proposed dwellings are generously proportioned in terms of internal space standards and private open space provision and provide for a good standard of residential amenity.

7.3.2 The proposed design whilst contemporary in character takes reference from the context and proximity to a residential conservation area and a number of protected structures. I consider that the nature and corner location of the site presents the opportunity for the development to establish its own character in terms of design and in my view the proposal is appropriate to this context. I note that the use of brick

finish seeks to link the development to a predominant external finish in the wider locality. In my view the proposal provides for an appropriate infill presenting positively to the public realm. As regards the loss of mature trees it is outlined in the submission of Tree surveys Ltd, Consulting Arboriculturalists on behalf of the first party that two of the existing sycamore trees require removal in any event. The retention of one-horse chestnut tree at the north-western corner of the site will benefit visual amenity and the applicant indicates their commitment to further landscaping on the site.

7.3.3 As regards on site public open space provision, having regard to the characteristics of the site and character of development in the vicinity I consider that it is appropriate that flexibility apply in terms of standards for public open space provision. Based on the site zoning and context and ready accessibility of the location to a number of existing open space amenities on site provision is not required. A special contribution in lieu of open space provision and this is appropriate in this regard. I note that this was not specified in the Council's decision.

7.3.4 As regards allegations of overdevelopment I note that the proposal gives rise to a density of 29 units per hectare which should be considered in the context of National Guidelines which state that the greatest efficiency in land usage is in the range of 35-50 dwellings per hectare and recommends that net densities less than 30 hectares would generally be discouraged in the interest of land efficiency. Having regard to the infill nature and character and size of the site and proximity to established low density residential development, I consider that the proposed density is acceptable in this context. Having considered the design and layout I consider that the proposal makes for better use of zoned land whilst responding generally to the specific constraints arising on the site. As regards the performance of the proposal to the 12 criteria for sustainable urban development as set out in the Urban Design Manual, I am satisfied that the proposed layout performs positively.

7.3.5 As regards impact on established residential amenity the location and setback from adjacent residential development results in no significant residential amenity impacts

and site landscaping will ensure that the proposed can be integrated to its context. As regards the loss of the roadside wall as noted within the grounds of appeal the wall does not form part of the curtilage of the protected structure and is materially different from the boundary of the adjacent protected structure.

7.4 Traffic, Access and Parking

7.4.1. As regards traffic I note that the sightlines at the junction of Milltown Path, Palmerston Park and Richmond Avenue are severely restricted by the appeal site boundary wall and the proposed development will improve this current situation. Access proposals were revised during the course of the application to provide for a cranked boundary to improve safety of access arrangements. I note that whilst Dublin City Council considered that the provision of 2 on site parking spaces in excess of the Development Plan Maximum Standards (Zone 2) was justified to prevent overspill parking on the adjacent public road network, the first party in response to the appeal suggests that the parking could be limited to one space per dwelling to provide better manoeuvrability within each site. In my view a limit to one space per dwelling is appropriate in the context of the Development Plan Standards and to encourage more sustainable transport patterns. In my view the level of traffic arising will not give rise to significant impact on the adjacent road network and I am satisfied that the proposed development is acceptable from a traffic and parking perspective.

7.5 Servicing and Appropriate Assessment

7.5.1. As regards servicing, technical reports on file raised no specific concerns in terms of public sewer capacity and public water supply. As regards construction impacts any such issues can be appropriately mitigated by way of best practice construction methods.

7.5.2 On the matter of appropriate assessment, having regard to nature and scale of the proposed development the fully serviced nature of the site and proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site

7.6 Recommendation

7.6.1 The proposed development on lands zoned Z1 is acceptable in terms of land use planning and sustainable development. The design and scale of the development is regarded as appropriate having regard to the context of the site and nature of impacts arising in the surrounding area. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the propose development for the reasons and consideration and subject to the conditions set out below:

Reasons and Considerations

Having regard to the Z1 zoning objective for the area, the central location, the design and form of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be generally in accordance with the Dublin City Development Plan 2016-2022, would not seriously injure the amenities of adjacent residential neighbourhoods or of the property in the vicinity, would not be prejudicial to public and environmental health and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further information submitted on 17th day of July 2019 except as may otherwise be required in order to comply with the following conditions

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

(i) One one-site parking space per dwelling shall be provided.

Revised drawings showing compliance 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 pedestrian and traffic safety.

3. Prior to the commencement of development details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and in the interest of visual amenity.

4. Proposals for an estate / street 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interests of urban legibility.

5. 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.

6. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

7. 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. In this regard ducting shall be provided to facilitate the provision of broadband infrastructure within the development.

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

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

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

9. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,

- (b) Employ a suitably qualified archaeologist who shall monitor all site excavations and other excavation works, and
- (c) Provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authorities considers appropriate to remove.

In default of any of these requirements the matter shall be referred to An Bord Pleanála for determination.

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

- 10. Prior to the commencement of development, the developer shall submit and obtain the written agreement of the planning authority to a plan containing details for the management of waste within the development.

Reason: In the interest of the residential and visual amenities of the area.

- 11. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall be prepared in accordance with “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

- 12 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. The plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction and demolition waste.

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

- 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 of roads, footpaths, water mains. 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.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the 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 Contributions Scheme made under section 48 of the Act be applied to the permission.

- 15 The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of public open space. The amount of the contribution shall be agreed between the planning authority and the developer, or in default of such agreement, the matter shall be referred to the Board for determination. 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 updated at the time of payment in accordance with the changes in the Wholesale Price Index – Building and Construction (Capital Goods) published by the central statistics office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Bríd Maxwell
Planning Inspector

10th December 2019