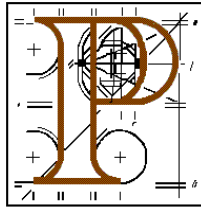


# An Bord Pleanála



## Inspector's Report

**PL 29S 245520**

**DEVELOPMENT:**

Vehicular Access, space to park a car including a new gate made from re-use of existing as iron railing, conservation works to the existing railing, pedestrian gate and plinth wall and associated front garden and site development works.

**LOCATION**

41 Ailesbury Road, Dublin 4.

**PLANNING APPLICATION**

**Planning Authority:**

Dublin City Council

**P. A. Reg. Ref:**

3201/15

**Applicant:**

Eileen Rocha and Mathew Hartnett.

**Decision:**

Refuse Permission.

**APPEAL**

**First Party Appellant:**

Eileen Rocha and Mathew Hartnett.

**Type of Appeal**

Appeal against Decision to Refuse Permission.

**Observers**

None

**Date of Inspection:**

22nd December, 2015.

**Inspector**

Jane Dennehy

## **1. SITE LOCATION AND DESCRIPTION**

- 1.1 The site of No 41 Ailesbury Road is that of a mid terrace two storey over garden level house located on the south side of Ailesbury Road. The front gardens are laid out in lawn with a pedestrian footpath linking a pedestrian entrance gate to granite steps and railings leading up to the front door. The appeal site property and the adjoining property within the terrace have not been altered to provide for on-site parking. The house was constructed in the late nineteenth century and the front facade is finished in redbrick and ashler at the garden level. There are cast iron railings on a stone plinth along the site frontage along with the pedestrian entrance gate. On street parking is available parallel to the footpath on both sides of the road.

## **2. PLANNING HISTORY:**

- 2.1 There is no record of any planning history for the site according to the planning officer report.

## **3. DEVELOPMENT PLAN.**

- 3.1 The operative development plan is the Dublin City Development Plan, 2011-2017 according to which the site location is within the area subject to the zoning objective: Z2: *To protect and improve the amenities of Residential Conservation Areas.*
- 3.2 No 41 Ailesbury Road is included on the record of protected structures.
- 3.3 According to Policy SI 13 and section 5.1.4.7 it is the policy of the city council to manage and provide carparking as part of the overall sustainable transport needs for the city and to retain on street parking as a resource for the city as far as is practicable. Carparking standards are set out in section 17.40 and Table 17.1.
- 3.4 According to Section 17.40.11 the City Council seeks to preserve on street parking where appropriate and there is a presumption against the removal of on street parking spaces to facilitate the provision of vehicular entrances to single dwellings in predominantly residential areas where residents are largely reliant on street parking spaces.

## **4. THE PLANNING APPLICATION.**

- 4.1 The application lodged with the planning authority indicates proposals for the creation of an opening to provide for an vehicular access by removal of existing cast iron railing and plinth, for construction of a vehicular entrance gate using existing cast iron railings that are to be removed and provision for a parking space for one car in the front

garden. Included with the application is a letter of support from the occupants of No 39 Ailesbury Road, and an architect's report with a conservation method statement.

- 4.2 The report of the Roads Planning Division contains a recommendation for refusal of permission on grounds of direct contravention of section SI 13 of the development plan and secondly, on grounds of undesirable precedent for similar development through the city.
- 4.3 The internal report of the drainage division indicates no objection subject to standard conditions.
- 4.4 The report of the Conservation Officer contains a recommendation for refusal of permission on grounds of loss of visual amenity by way of removal of the front garden lawn. It is noted that No 39 and No 41 have narrow plot widths and have retained original plinth walls and railings. According to the report the gravelling of the front garden would enable five cars to park on site and that the front curtilages of other properties are crammed with cars. Refusal is recommended due to detraction from the character and setting of a protected structure and serious injury to the residential and visual amenities of an important residential conservation area.

## 5. **DECISION OF THE PLANNING AUTHORITY.**

- 5.1 By Order dated, 26<sup>th</sup> August, 2015 the planning authority decided to refuse permission on the basis of the following reasons:

*“Policy SI13 of the Dublin City Development Plan, 2011-2017 states that it is policy of Dublin City Council to retain on street parking as a resource for the city as far as practicable. The proposal, which includes the removal of at least one on-street car parking space to accommodate private vehicular access, is contrary to the Dublin City Council policy and would reduce the supply of on-street car parking available to residents on the street. The proposed development, would therefore, directly contravene Policy S113 of the current Development Plan, and is contrary to the proper planning and sustainable development of the area.”*

*“The proposed development would detract from the character and setting of a protected structure and would seriously injure the residential and visual amenities of a residential conservation area and would therefore be contrary to the Z2 land use objective for the site.”*

## 6.0 THE APPEAL.

- 6.1 An appeal was received from Reid Associates on 22<sup>nd</sup> September, 2015 in which it is submitted that the reasons for refusal of permission are unsustainable in the context of the subject site location. Included among the attachments are some photographs of the appeal site and environs and a drawing showing an alternative design solution for the proposed development. The alternative design provides for incorporation of the pedestrian entrance into the proposed vehicular entrance. An outline summary follows:
- 6.2 **Reason 1** is predicated on reducing supply for residents. There are 137 on street spaces; No 41 and No 39 are the only dwellings without on-site parking. According to a lunchtime survey three of the on street spaces were occupied. As regards the policy of presumption against removal of on street parking Residents on Ailesbury Road are not reliant on on-street parking. There can be no adverse impact on parking availability for residents. The rationale for Policy SI 13 is to safeguard parking on street for residents and not commuter parking. carparking to service residential needs is a requirement of the development plan to support and to encourage residential use in the inner city.
- 6.3 It is illogical to implement Policy SI 13 in a residential conservation area. It would undermine the attractiveness of protected structures as family dwellings and policy to support families living in the city and facilitate off street parking for residential occupiers.
- 6.4 On-site parking at the appeal site would be a safe area for the applicants who have an eighteen month baby as it provides ease of access, comfort and security. On-site parking can increase property value by €100,000 demonstrating the contribution to residential amenity.
- 6.5 **Reason Two** contains no grounds to support the second reason for refusal. The conservation officer is concerned about loss of the grassed area. A gravel surface is exempt development and is in keeping with the character of protected structures. The remarks of the conservation officer report about a front garden gravelled areas being crammed with cars is ill considered.
- 6.6 Off street parking defines the streetscape in keeping with the zoning objective. The conservation officer did not analyse the conservation method statement or the streetscape character. The conservation method statement is a detailed analysis which shows that s ensured that the change is minimal with negligible impact.
- 6.7 A gravel surface is appropriate. There is established precedent No 41 and 39 being the only two houses without on street parking.
- 6.8 The proposal complies with development plan policy providing for parking where site conditions exist and where criteria such as protection

of integrity of the protected structure/conservation area, sufficient depth in the garden and access and egress without traffic hazard.

- 6.9 The description in the RPS which is “house” does not include reference to the railings and garden. This contrasts with other descriptions in the RPS. (for example, Marlborough Road and the Provost’s House on College Green.) The gardens are not protected unless they are of special interest in their own right. This approach is ratified in the Architectural Heritage Protection Guidelines.
- 6.10 The test is acceptability or permissibility of works that do not damage the special character and the entrance has no such impact. The gravel surface allows for reversibility and is standard at protected structures. The width is kept to a minimum a 2.6 metres and the pedestrian gate is retained.
- 6.11 The alternative option (Drawing No A-PA02 Rev 0) shows more minimisation of change with the entrance being accommodated with the pedestrian entrance and allows it to align with the steps and improve formal layout. The original proposal is in accordance with recommendations of the City Council for vehicular entrances at historic properties as is shown in the architecture report which should be carefully read. With regard to Policy FC 33 of the development plan there is negligible impact on the streetscape character of the terrace and the boundary hedge will screen the parking space.
- 6.12 It is extraordinary that the planning officer did not refer to the primacy of the residential zoning objective. The decision to refuse permission is over reliant on the conservation officer report.

## **7. RESPONSE TO THE APPEAL BY THE PLANNING AUTHORITY.**

- 7.1 There is no submission on file from the planning authority.

## **8. EVALUATION**

- 8.1 The issues central to the determination of a decision are that of impact on availability of on street parking.

Impact on available on street parking facilities.

Need for on-site parking,

Impact on integrity of the protected structure and visual impact on the residential conservation area and,

Precedent.

**8.3 Impact on available on street parking facilities.**

It is agreed that the removal of an on-street parking space is unlikely to have serious impact on the availability of parking for residents and on other non-residential users. There is little demand for the on street paid parking facilities which are also available for residents' permit parking. To this end the case made in the appeal in which there are references to development plan policies and the scenario in the inner city is reasonable.

**8.4 Need for on Site parking.**

Given the ample availability of on street parking especially in front of the front boundary, it is not considered that there are any special circumstances to support a case for the provision of on-site parking to facilitate the residential use within a conservation area. It is not accepted that property value and potential property value is adversely affected by the lack of on-site parking.

**8.5 Impact on integrity of the protected structure and visual impact on the residential conservation area.**

For protected structures statutory protection extends to the entire site curtilage including boundaries unless it is specified in the description that some elements are excluded. In this instance statutory protection therefore applies to the entire curtilage inclusive of the front garden and gates and railings. It is considered that the gates and railings and the lawn with a pedestrian footpath to the entrance are significant elements that contribute to the integrity of the protected structure. Interventions to the original fabric of the cast iron railings are involved in both options.

8.6 While intervention to historic fabric and to the integrity of the structure would occur, interventions have been made to most of the Ailesbury Road properties. It is therefore accepted that the current established character of the conservation area incorporates changes by way alterations at several properties providing for vehicular access and gravelled front curtilages.

8.7 Given, the narrow width of the plot, similar to the other two plots in the terrace of three houses, the concern on the part of the conservation officer about the potential for the front curtilage to be taken up by several parked cars is reasonable. The creation of a vehicular entrance and the gravelling over of the entire depth of the front garden would result in potential for this to occur. The impact of this scenario be particularly significant due to the narrow plot width. It would wholly undermine and be seriously injurious to the integrity and setting of the protected structure and to the character of the residential conservation area. While the applicant seeks permission for one on site space only with the garden being covered over entirely in gravel. A dedicated space within the front garden has not been specified in the application.

8.8 It is considered therefore that the proposed development would be seriously injurious to the setting and integrity of the protected structure and to the character of the residential conservation area as provided for in the zoning objective. The option could be taken to provide the applicant by way of a section 132 notice review and submit new proposals for the layout to provide for provision of one space only within the front garden area for consideration prior to the determination of a decision.

8.9 **Precedent.**

With the exception of the adjoining property it is likely that no direct precedent for similar development in the area could be taken from the proposed development if permitted. However there may be some potential for precedent for similar development at other locations in residential conservation areas and at protected structures.

8.10 **Appropriate Assessment Screening.**

Having regard to the nature and location of the proposed development and to the receiving environment which is an urban and fully serviced location, it is considered that the no appropriate assessment issue arise.

9. **CONCLUSION AND RECOMMENDATION.**

9.1 In view of the foregoing it is recommended that the appeal be rejected and that the planning authority decision to refuse permission be upheld on the basis of the reason set out in the draft order overleaf.

## **DECISION**

**Refuse Permission on the Basis of the Reasons and Considerations set out below.**

### **REASONS AND CONSIDERATIONS.**

Having regard to the narrow plot width and to the proposed layout of the the entire front garden under a gravelled surface to provide for on-site car-parking, it is considered that the proposed development would be seriously injurious to the integrity and setting of the protected structure and to the visual amenities and character of the streetscape which is within an area subject to a development objective: *“Z2 to protect and improve the amenities of Residential Conservation Areas”* in the Dublin City Development Pla,2011-2017 residential conservation area. As a result the proposed development would be contrary to the proper planning and sustainable development of the area.

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**Jane Dennehy,  
Senior Planning Inspector.  
23rd December, 2015.**