

# An Bord Pleanála



## Inspector's Report

**Appeal Reference No: PL29S.246394**

**Development:** Permission sought for the material change of use from a residential property to a commercial property, the demolition of existing derelict dwelling and boundary wall with Mount Pleasant Business Centre and the provision of 7no. car parking spaces for occupants of neighbouring commercial premises 'Mount Pleasant Business Centre', elevational changes and all associated works.

**Address:** 59A, Belgrave Square, Rathmines, Dublin 6.

### Planning Application

Planning Authority: Dublin City Council  
Planning Authority Reg. Ref.: 2032/16  
Applicant: Mr & Mrs Bart and Kathleen Cunningham  
Planning Authority Decision: Refusal (1no. reason)

### Planning Appeal

Appellant(s): Mr & Mrs Bart and Kathleen Cunningham  
Type of Appeal: First party against decision  
Observers: None  
Date of Site Inspection: 30/06/16

**Inspector:** John Desmond

## **1.0 SITE LOCATION AND DESCRIPTION**

The application site is located south of Dublin City, c.700m south of the Grand Canal, approximately midway between the centre of Rathmines and the centre of Ranelagh. The site fronts onto Mount Pleasant Avenue Upper, less than 50m north of Belgrave Square Park.

The area is strongly characterised by period dwellings, dating most probably from the early 19<sup>th</sup> century, set out in a mix of formal terraces behind leafy front gardens of varying depths. There is some later infill residential development. The area appears predominantly suburban residential excepting Mount Pleasant Business Centre adjacent the north of the application site. The business park is indicated as within the control of the applicants.

The application site has a stated area of 185-sq.m. It is roughly L-shaped, with its access extending west from Mount Pleasant Avenue along the rear boundary to no.60 Belgrave Square North, and then extending south to encompass much of what would appear to have comprised the original extent of the rear garden area to no.59 Belgrave Square North. There is a single-storey structure on site that would appear to have been in used as a residential dwelling, but is now overgrown with ivy and may be described as derelict. It has a stated floor area of 57-sq.m and would appear to be of mid-20<sup>th</sup> century construction. It is constructed along the party boundaries to the rear of 59, to the side of nos.58 and 60 Belgrave Square North and to the south of Mount Pleasant Business Centre. An overflowing rubbish bin and other waste material has been left in on site. The site is screened from view by high walls and timber gates.

Mount Pleasant Business Centre is located to the north of residential properties fronting onto Belgrave Square North, to the west of those fronting onto Mount Pleasant Avenue Upper, to the south of those fronting onto Gulistan Terrace and to the east of residential dwellings at Gulistan Place and Belgrave Mews. It comprises three 2-storey blocks of different sizes accommodating commercial office use.

Car parking within the business centre is limited and somewhat haphazard. A one-way vehicular circulation system operates (with the entrance to the north and exit to the south), making the most efficient use of space on site and maximising the area available for off-street car parking. However, most of the residential properties backing onto the site have access there-onto, either vehicular or pedestrian, which limits the possible parking layout. Many, if not

all, parking spaces are reserved for use by specific units. At the time of inspection, parking was near capacity. No formal bicycle parking was evident on site.

## 2.0 PROPOSED DEVELOPMENT

The proposed development comprises:

- The material change of use from a residential property to a commercial property
- Demolition of existing derelict dwelling
- Demolition of existing boundary wall to Mount Pleasant Business Centre
- Provision of 7no. car parking spaces for use by occupants of Mount Pleasant Business Centre.
- Unspecified elevational changes and all associated site works at no.59A Belgrave Square.

## 3.0 PLANNING HISTORY

**PL29S.208928 / Reg.ref.2719/04:** Permission **GRANTED** by the Board on appeal (01/02/05), upholding the decision of Dublin City Council, for an office / showroom development at Unit H, Mount Pleasant Industrial Estate, Upper Mount Pleasant Avenue, Ranelagh, Dublin 6, comprising change of use from car garage to showroom / offices at ground floor level and offices / studio at first floor level, being a modification to the existing structure, an extension at ground floor level and the construction of an intermediate floor and an entrance lobby, stair / lift core and toilet facilities to the northern side of the building.

**Reg.ref.0626/01:** Permission **GRANTED** by Dublin City Council (03/05/01) for material alterations comprising modifications to internal planning and external elevations to existing units E & F, and the construction of a two storey atrium extension connecting E & F within Mount Pleasant Business Centre.

Condition no.4      *The use of unit E, unit F and the two storey connecting atrium hereby permitted shall not be changed from the established Class 4 light industrial use without a prior grant of permission. REASON: To clarify the scope of the planning permission.*

**PL29S.121525 / Reg.ref.2219/00:** Permission **GRANTED** by the Board on appeal (25/04/01), upholding the decision of Dublin City Council for change of use from light industrial to office use to existing, material alterations comprising modifications to interior and elevations, the construction of a two storey atrium connection between units E&F. Two of the attached conditions are relevant.

Condition no.2 *Prior to commencement of development details of location, type and number of secure cycle parking facilities to serve the development shall be submitted to the planning authority for written agreement. REASON: In order to promote and encourage sustainable forms of transportation to and from the development and to encourage alternatives to car commuting in the interests of the amenities of the area.*

Condition no.3 *Prior to commencement of development, a site plan showing provision for car parking and vehicle circulation within the estate shall be submitted to the planning authority for written agreement. REASON: In the interest of traffic safety and the amenities of the area.*

**PL29S.122312 / Reg.ref.2890/00:** Permission **GRANTED** by Dublin City Council (31/10/00) for change of use from car showroom and ancillary office accommodation to office use to existing Unit A, including material alterations comprising modifications to interior and elevations. Two of the attached conditions are relevant, being identical to condition nos.2 and 3 attaching to PL29S.121525, above.

#### **4.0 PLANNING AUTHORITY DECISION**

Decision to **REFUSE** permission for 1no. reason:

*'The proposed development to replace a residential dwelling with an open surface car park to accommodate 7 spaces is contrary to the permissible and open for consideration uses which have been laid out in the 2011-2017 Dublin City Development Plan for Z2 residential conservation areas and as such the proposal is considered to seriously injure the amenity of property in the vicinity and to be contrary to the proper planning and development of the area.'*

#### 4.1 Planning and technical reports

**Planning Officer**– The report of 08/03/16 is consistent with the refusal reason in the decision of the Council to refused permission. No other issues are raised.

**Roads and Traffic Planning Division** – The report of 23/02/16 notes omissions from the application and recommends that further information be sought on the following points to facilitated a proper assessment of the proposals:

- a) Details of the business centre including size and use of units.
- b) Site drawing showing location of all existing car parking and cycle parking spaces associated with the business park.
- c) Justification for the additional proposed parking spaces in view of the car and parking standards in the Development Plan and the proximity to good public transport, pedestrian and cycle facilities.

**Drainage Division** – The report of 08/02/16 raises no objection subject to compliance with Greater Dublin Regional Code of Practice for Drainage Works and incorporation of SUDs in management of stormwater.

#### 5.0 GROUNDS OF APPEAL

The grounds of appeal are set out in a report by HRA Chartered Town Planning Consultants on behalf of the appellants. The grounds of appeal may be summarised as follows:

- The proposed car parking is not intended to serve as a surface car park per se that would be open for public use, but is intended to address the specific operational requirements of the adjoining activity and for private off-street use, pursuant to the dynamic uses of the business centre and the need for users and specific business to access the site throughout the day to and from other locations.
- Should be viewed in context of the underutilisation of the existing property.
- Can be easily assimilated and integrated as part of the business centre.
- The zoning of the business centre as Z1 ‘Sustainable Residential Neighbourhoods’ and the activity of the use does not detract from surrounding residential amenity.

- The Z2 'Residential Neighbourhoods (Conservation Areas)' zoning of the site is applied due to the immediate urban morphology and its location within what would have originally been part of the rear of no.59 Belgrave Square North. The site does not benefit from the Z2 zoning as a consequence of some unique or special character of the property by itself in isolation from the surrounding lands.
- Commercial, economic and employment based activity is permissible or open for consideration within zone Z2 and therefore, consequently ancillary infrastructure, including parking. The said uses to which the proposed parking would be ancillary is already existing. Therefore the proposed parking does not contravene materially the zoning objective.
- The existing dwelling has no functional or aesthetic relationship with the main dwelling, no.59, is of no architectural merit and is a hidden property that does not form a constituent part of the streetscape or built amenity value.
- The structure has been physically and operationally separate from no.59 for a considerable period of time, forms no part of that property's residential amenities and the proposal could not interfere with, or adversely affect the residential amenity or setting of that property or other adjoining properties.
- The proposal would not result in the creation of a new activity which does not already exist in the immediate location to the rear of existing properties and would not result in a material change in the established character of the area.
- The applicant is mindful of parking objectives under the Development Plan, but submits that in certain instances consideration must be given to the established circumstances on a case by case basis. It is submitted that the Council's Roads and Traffic Planning Division applied this logic in its recommendation that further information be sought.
- Dublin City Council, under previous decisions (subsequently upheld by the Board under PL29S.121525 and PL29S.122312), accepted that whilst the proposed office use was neither permitted nor open for consideration under the then Z1 zoning, the contravention was not material. This logic is equally applicable to the merits of the proposed scheme.
- A layout for 21no. car parking spaces (drawing attached to appeal) was submitted to and agreed with the Council as required by condition no.3 attaching to Board decisions PL29S.121525 and PL29S.122312.

- Current and actual parking demand exceed the parking provision and the 7no. additional spaces are sought to ensure the safe and free flow of traffic into and out of the business centre and to address ad hoc parking currently experienced.
- It would reduce onstreet parking on Mount Pleasant Avenue Upper and therefore improve residential amenities of the area.
- The increase in parking is negligible and is responsive to site specific demand, consistent with previous decisions and would satisfy the requirements to the Roads and Traffic Planning Division of DCC.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **6.1 Planning Authority response**

None received to date

### **6.2 Observations on grounds of appeal**

None received to date

## **7.0 POLICY CONTEXT**

### **Dublin City Development Plan 2011-2017**

Land use zoning	The application site (outlined in red) is zoned Z2 Residential Neighbourhoods (Conservation Areas) ' <i>To protect and / or improve the amenities of residential conservation areas</i> '; Additional land under the applicant's control (outlined blue) is zoned Z1 Sustainable Residential Neighbourhoods ' <i>To protect, provide and improve residential amenities</i> '
Section 5.14	Car parking (policy SI14)
Section 7.2	Built Heritage
Section 15.10.1	Sustainable Residential Neighbourhoods – Zone Z1
Section 15.10.2	Residential Neighbourhoods (Conservation Areas) – Zone Z2
Section 17.40	Car parking standards
Table 17/14	Car parking standards for various land uses

### **7.1 Reference documents and guidelines**

**Architectural Heritage Protection Guidelines (2011)**

## **8.0 ASSESSMENT**

I consider the main points arising in this appeal can be addressed under the following headings:

1. Policy and standards
2. Impact on residential amenities
3. Impact on heritage
4. Conclusion and recommendations

### **8.1.0 Policy and standards**

- 8.1.1 The site is zoned Z2 Residential Neighbourhoods (Conservation Areas). Within that zone it is the objective '*To protect and / or improve the amenities of residential conservation areas*'. The principal use in this zone is but a limited range of other secondary and established uses (such as those for Z1 lands) may be accommodated. I am satisfied that the proposal to blanket change the use of the site from residential to commercial, as opposed to a specific proposed non-residential use, does not comply with the land use zoning objective for the site.
- 8.1.2 In addition to the proposed material change of use of the site, the applicant proposes to replace the existing building and residential curtilage with an open surface car park associated with the Mount Pleasant Business Centre. Within zone Z2 'car parks' are neither acceptable in principle nor open for consideration.
- 8.1.3 According to the City Development Plan, the general objective for zone Z2 is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area. In considering other uses, the guiding principle is to enhance the architectural quality of the streetscape and the area. I am satisfied that the proposed use of the subject site as a car park will not enhance the architectural quality of the streetscape and the area.
- 8.1.4 The applicant submits that commercial, economic and employment based activity is permissible or open for consideration within zone Z2 and that it therefore follows that ancillary infrastructure, including parking, is also permissible or open for consideration within that zone. It is argued that as the said uses, to which the proposed parking would be ancillary, are already extant, the proposed parking does not contravene materially the zoning objective.



- 8.1.5 The extent of commercial or employment based activity permitted in principle or open for consideration within Z1 land is restricted, and is even more within lands zoned Z2. The applicant has not demonstrated that the existing uses within the Business Centre would themselves be open for consideration within the Z2 zone.
- 8.1.6 The proposed commercial use of the subject site would generate no car parking demand in itself as no commercial floor space is proposed. The site is less than 670m walking distance to the Beechwood Luas station, less than 420m and 470m walking distance from Rathmines and Ranelagh main streets, respectively. The Council's Roads and Traffic Division advised that justification of the proposed parking was required having regard to the proximity of the site to good transport, pedestrian and cycling facilities, and having regard to the existing floor space and car parking provision within the Business Centre. In response to the appeal the applicant submitted to the appeal that consideration should be given to the established circumstances on a case by case basis, but did not provide the information sought by the Roads and Traffic Division, or make reference to the Council's car parking standards (table 17.14 refers) and policies (under section 5.15 and policy SI14, in particular) to support its case or assist in the assessment. It should be noted that the parking standards under the Development Plan are maximum standards consistent with Government transport policy under '*Smarter Travel 2009-2020*'. In the absence of the required information the proposed additional parking is unjustified.
- 8.1.7 It should be noted that the existing residential dwelling is derelict, not ruinous. The applicant has not provided any information as to when it was last in use as a residential dwelling or as to the feasibility, or not, of reinstating it to active residential use.
- 8.1.8 **Conclusion** – The proposed material change of use of this site from residential to commercial use, and the proposed provision of a car park on this residential site is contrary to the zoning objective Z2 Residential Neighbourhoods (Conservation Areas) '*to protect and / or improve the amenities of residential conservation areas*'. The proposed additional car parking is unjustified and contrary to Council policy SI14.

## 8.2.0 Impact on heritage

- 8.2.1 The application site is located to the rear of no.59 Belgrave Square North, a Protected Structure. It would seem that the application site previously formed part of the curtilage to no.59, but was separated therefrom at some point in

the not too distant past (this has not been defined by the applicant). As to whether the subject site may be considered to fall within the curtilage of the Protected Structure, the AHPG 2011 offers the example that *'the rear garden and mews house may be considered to fall within its curtilage even where the mews house is now on a separate ownership'* (para.13.1.2). On this basis, I would advise the Board that the subject site falls within the curtilage of a Protected Structure.

- 8.2.2 The report of the Council's Planning Officer made no reference to the protected status of no.59, nor did it consider whether or not the protected status applied to the application site, no.59A.
- 8.2.3 The application form indicates that the site is not within the curtilage of a protected structure and the public notices do not refer to the site being location within the curtilage of a protected structure. The validity of the application is therefore at question, however I note that this has not been raised by any party and is therefore a **NEW ISSUE**.
- 8.2.4 The site is within a conservation area, but not a designated Architectural Conservation Area, and the nature and heritage status of this area is therefore somewhat vague. Section 15.10.2 (Z2 Residential Neighbourhoods (Conservation Areas)) directs that Chapter 7, which relates to heritage and culture, (and section 17.10.8 and Appendix 10) be consulted to inform any proposed development. Having regard to the provisions of section 7.2.5.3, zoning objective Z2 and the policies thereunder<sup>1</sup>, the defined Z2 conservation area would appear to be a de facto "*architectural conservation area*" in accordance with the provisions of section 81 of the Act<sup>2</sup>.
- 8.2.5 I am satisfied that the removal of the existing building, which is currently of no obvious heritage value, and the northern boundary wall, which is not the original wall but a wall of concrete block, would not be detrimental to the architectural heritage of the area. The proposed new hardstanding areas would not be a positive addition, but would not, in my view, be detrimental given the current context. However, I am conscious of the potential for incremental damage that the provision of additional such surface car parking may have, as is advised in the AHPG 2011 (under section 7.13 in reference to

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<sup>1</sup> Policies FC40 and FC41, in particular

<sup>2</sup> Note, an ACA does not need to be designated as an '*area of special planning control*' under section 84 and there is no requirement to notify property owners within the ACA where it is proposed to designate an ACA when making a Development Plan.

ACA), including the setting of a precedent for further such development within the Z2 zone. The guidelines also advise that '*the demolition of garden walls and the combining of two or more areas of garden to provide car parking within an urban area should generally be avoided*' (section 13.7.7, in reference to protected structures). For this reason I consider the proposal would seriously injure the amenities of the conservation area, contrary to the Z2 zoning objective. The Board may regard this as a **NEW ISSUE**.

8.2.6 **Conclusion** – The proposed development, within the curtilage of a Protected Structure, no.59 Belgrave Square North, and within an Architectural Conservation Area, comprising the demolition of garden walls and the combining of two or more areas of garden to provide car parking is contrary to the advice of the Architectural Heritage Protection Guidelines (2011). The validity of the application is at question as the application makes no reference to the location of the site within the curtilage of a Protected Structure. These are **NEW ISSUES**.

#### 8.3.0 **Residential amenities**

8.3.1 The site currently accommodates a derelict dwelling and has limited, but not wholly absent, residential amenity value. The proposal would remove the existing residential amenity of the site and the potential residential amenity of the site possibly permanently. In light of the current housing crisis, the loss of existing residential units in favour of open surface car parking in areas zoned for residential use cannot be viewed favourably. I therefore consider the proposed development to be contrary to the Z2 zoning objective.

8.3.2 The proposal would have minimal impact on the residential amenity of neighbouring properties. The removal of a derelict building may be considered a positive impact on neighbouring residential amenity.

#### 8.4.0 **Appropriate Assessment**

8.4.1 Having regard to the small scale of the proposed physical development, comprising demolition of existing suburban dwelling and the putting in place of 7no. surface car parking spaces within the built up area of Dublin, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 9.0 CONCLUSIONS AND RECOMMENDATION

It is considered that the proposed development should be **REFUSED** for the reasons and considerations hereunder.

### REASONS AND CONSIDERATIONS

1. The land use zoning objective Z2 'Residential Neighbourhoods (Conservation Areas) *'To protect and / or improve the amenities of residential conservation areas'*, applies to the site under the Dublin City Development Plan 2011-2017. The proposed change of use of the site from residential to unspecified commercial use is neither permitted in principle nor open for consideration within the said land use zone. The proposed use of the site as a car park is neither permitted in principle nor open for consideration within the said land use zone. It has not been demonstrated that the proposed additional car parking spaces are justified within the site context in proximity to good quality public transport and the site's accessibility in terms of walking and cycling modes, having regard to the policy (SI14) of the Council regarding car parking provision and to the car parking standards, being maximum standards, under the statutory Development Plan consistent with Government transport policy '*Smarter Travel 2009-2020*'. The proposed development is therefore contrary to provisions of the Dublin City Development Plan 2011-2017 and contrary to the proper planning and sustainable development of the area.

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**John Desmond**  
**Planning Inspector**  
**06/07/16**