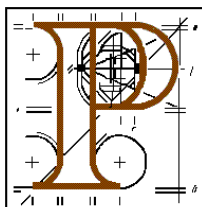


An Bord Pleanála



Inspector's Report

Replacement of Vehicular Entrance and Exit point from long Mile Road Road, with new access point from Robinhood Park. The works will include the extinguishment of the existing entrance at 1A Robinhood Park, Longmile Road, Dublin 22

Planning Application

Planning Authority:	South Dublin County Council
Planning Authority Reg.	SD16A/0041
Applicant:	Colm O Cuilleanain and Martin Ryan
Type of Application:	Permission
Planning Authority Decision:	Grant with Conditions

Planning Appeal

Appellant(s):	Colm O Cuilleanain and Martin Ryan
Type of Appeal:	1 st Party Vs Condition
Observers:	Residents of Robinhood Park & District

Date of Site Inspection: 13th of July 2016

1.0 SITE LOCATION AND DESCRIPTION

1.1 The site is located on the western side of the junction at Longmile Road and Robinhood Road. There is a dwelling on the abutting site to the south, Longmile Road is to the north, Robinhood Road is to the east, and there is a carpark to the west associated with the abutting office development. The site includes a semi-detached dwelling and it is a corner site. Access to the site is currently off Longmile Road, which is a high volume Regional Road.

2.0 PROPOSED DEVELOPMENT

2.1 The proposed development is to change the point of access to the applicant's property at 1A Robinhood Park, Longmile Road, Dublin 22.

3.0 SUBMISSIONS RECIEVED

There was one submission received stating:

- The drawings are inaccurate
- Illegal portacabin
- The land outside of boundary where access is to be located is not in the legal ownership of the applicants
- The existing access is more suitable for the use of the site
- Additional traffic on to the cul de sac will endanger children
- Parking

4.0 TECHNICAL REPORTS

Planning Report:

A summary of the key issues is as follows:

- Zoning is EP1 – *To Facilitate opportunities for intensive employment uses complemented by mixed use development based on the principle of street networks and in accordance with approved plans.*
- *Policy T37 applicable*
- Third party land ownership may be an issue however it would appear the lands in question by third parties are owned by the planning authority.
- Roads Report has no objection subject to conditions

5.0 PLANNING AUTHORITY'S DECISION

South Dublin Co. Co. granted permission for the proposed development subject to conditions. The relevant condition to this appeal reads as follows:

No later than one year from the date of the final grant of permission, the existing vehicular entrance onto Longmile Road shall be permanently blocked up with the concrete block wall and shall be plastered and capped to match the design and height of the existing boundary wall along Longmile Road.

6.0 APPEAL GROUNDS

6.1 The appeal is pursuant of section 127 of the Planning and Development Act 2000 against condition 2 (b) of the permission.

6.2 The condition places an onus on applicant to complete blocking up of the existing entrance within one year of the final grant of permission. The replacement of the vehicular entrance will need to be constructed prior to the existing entrance being blocked up and the condition places undue time pressure on the applicant.

The permission is standard 5 year permission, however the condition reduces the permission to a one year permission. This is too restrictive and the applicant is not in a position to implement the permission at the present time.

6.3 The Board is requested to revise the wording of the condition as the applicant has not objection to the principle of the condition, it is the timing element that there is an issue with.

No later than one year from the commencement of the development, the existing vehicular entrance onto Longmile Road shall be permanently blocked up....

This would ensure the new and existing entrance could be managed at the same time which is more reasonable for the applicant.

7.0 RESPONSES

7.1 The planning authority confirms it's decision.

8.0 OBSERVATIONS

8.1 Residents of Robinhood Park & District has made a submission on appeal:

- The documents submitted by the applicant are inaccurate. The site map and aerial photo illustrate a much larger land holding than in reality
- There is an illegal portacabin
- There is no tent on the subject site.
- The area outlined in orange is not in the legal ownership of the two applicants as per the land registry documentation.
- There is no need for a new entrance as existing entrance is adequate.

- The former use on the site was a parcel delivery service and the existing entrance was appropriate and there were no vans or parking within the residential area abutting the property.
- The land to the east of the site is not in the legal ownership of the applicants
- The residents wish to retain the green area fronting their houses
- There would be additional traffic onto the cul-de-sac where the children play
- Additional parking would occur along the cul-de-sac

9.0 PLANNING HISTORY

9.1 There is relevant recent planning history.

10.0 PLANNING POLICY

Zoning is EP1 – To Facilitate opportunities for intensive employment uses complemented by mixed use development based on the principle of street networks and in accordance with approved plans

11.0 ASSESSMENT

11.1 The appeal is pursuant of section 127 of the Planning and Development Act 2000 against condition 2 (b) of the permission. Although there is a third party observation on appeal regarding the validity of the application, the accuracy of the drawings and the overall principle of the development, these issues were addressed in detail by the planning authority prior to making its decision. This appeal was made by the First Party in respect of a section of a planning condition attached to the decision to grant permission for the replacement of an existing vehicular entrance off Longmile road to a new entrance along Robinhood Park. I believe the principle of the development is acceptable and the board can consider the merits of this appeal pursuant of Section 127 of the Planning Acts.

11.2 Condition 2(b) imposed a requirement that no later than one year from the final grant of permission, the existing vehicular entrance onto Longmile Road shall be permanently blocked up. The applicant has submitted the replacement of the vehicular entrance will need to be constructed on Robinhood Park, prior to the existing entrance being blocked up and the condition places undue time pressure on the applicants. It is also submitted the permission is standard 5 year permission, however the condition reduces the permission to a one year permission. This is too restrictive and the applicant is not in a position to implement the permission at the present time. The Board is requested to revise the wording of the condition as the applicant has no objection to the principle of the condition, it is the timing element that there is an issue with. The suggested revised wording includes:

No later than one year from the commencement of the development, the existing vehicular entrance onto Longmile Road shall be permanently blocked up....

- 11.3 I note the Road Department Report on file. It specified in the report the existing entrance on Longmile Road should be removed and blocked up by continuing the existing block wall along the boundary. The Roads Report did not specify a timeframe for this, unlike the planning condition imposed. There is no explanation in the planning report for requiring the existing entrance to be blocked within one year of the decision. I consider the applicants proposed amendment to the wording of Condition 2 (b) to be reasonable. It ensures the existing entrance will be permanently blocked up in tandem with providing the new entrance to the site, which is reasonable. I consider the present wording of Condition 2(b) places an unnecessary and onerous burden on the applicant's to close the existing entrance within one year of the decision, and this requirement has not been justified by the planning authority.
- 11.4 The Third Party observations were considered in detail by the planning authority. The proposed development is the replacement of an existing entrance onto the subject site, it does not relate to the use or the structures within the site. Any issues relating to land ownership and land registry maps are civil matters between the parties and Section 34(13) of the planning and Development Act 2000 clearly states, "A person shall not be entitled solely by reason of a permission to carry out any development". The third parties have not provided sufficient evidence to support their arguments regarding landownership. The proposal is replacement of an existing entrance, not an additional entrance at the property. Therefore it does not imply an intensification of use of the subject site.

12.0 RECOMMENDATION

I recommend Condition 2(b) be amended as follows;

Prior to the commencement of the development the applicant shall agree the in writing a timeframe for the permanent closure and blocking up of the existing entrance onto Longmile Road with a concrete block wall which shall be plastered and capped to match the design and height of the existing block boundary wall along Longmile Road.

Caryn Coogan

Planning inspector

20/07/2016