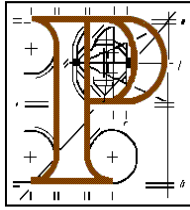


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL29S.246668

Development: Development at no.6 St. Mary's Road, Ballsbridge, Dublin 4 for: 1 off street parking space opening off Haddington Place, raising the roof level and internal alterations under Reg.Ref.2583/14.

Planning Application

Planning Authority: Dublin City Council
Planning Authority Reg. Ref.: WEB1093/16
Applicant: Tom McGrath
Planning Authority Decision: Split Decision

Planning Appeal

Appellant(s): Tom McGrath
Type of Appeal: First Party
Observers: None
Date of Site Inspection: 22nd of August 2016

Inspector: Angela Brereton

1.0 SITE LOCATION AND DESCRIPTION

The application site is to the south of the Grand Canal and is a corner site which has frontage to Haddington Place with the front elevation facing St.Mary's Road South. The blank rendered stone wall of a convent for the Sisters of the Holy Faith adjoins the site and a school site that is now under construction is located further to the north. There are a number of schools in the vicinity. Shelbourne Road and the Aviva Stadium are further to the east.

The site comprises a substantial detached dwelling house, as does the neighbouring house to the west no.4 St. Mary's Road South. It is presently undergoing works (scaffolding is in use) for their original permission Reg.Ref.2583/14 and is being converted to a single residence. The floor levels of the single storey rear extension have been raised to give one continuous floor level. A temporary access to facilitate the works has been opened up onto St. Mary's Road South.

There is a stone wall along the site boundaries of No.6 with the footpath. There is one other gated garage entrance further to the north on the opposite side of Haddington Place and several garage entrances onto St. Mary's Lane. On street parking areas are marked out and there is metered parking i.e pay and display/permit parking in the area.

2.0 PROPOSED DEVELOPMENT

The proposed development is for:

- a) 1 off-street car parking space opening off Haddington Place, together with provision of new sliding gate within the boundary wall;
- b) Raising of roof level to accommodate continuous floor level throughout dwelling;
- c) Internal alterations.

A letter from McCutcheon Halley Walsh Chartered Planning Consultants has been submitted which provides a rationale for the application.

Drawings showing Floor plans, Sections and Elevations have been submitted. These show the development as granted under Reg.Ref.2583/14 and the modifications as proposed. A Schedule of floor areas has been submitted showing that the total floor area that has been granted and is now proposed is similar at 454.8sq.m. The proposed modifications are shown in yellow. The application form provides that the proposed plot ratio is 0.57 and site coverage is 34.70%. The plans also show a disabled parking space proposed on site with access onto Haddington Place.

3.0 PLANNING HISTORY

Subject site

Reg.Ref.2583/14 – Permission granted by the Council to Merrion Property Group Ltd. for the provision of a new two storey extension to the west gable of the existing house and new hipped roof to existing 2 storey extension to east gable and new single storey extension to rear north facing elevation. Accommodation to include new kitchen, dining living area, with ancillary utility, boot room and plant room to rear,

family room, playroom, study with drawing room and library all on ground floor with 4 bedrooms, family bathroom and 3 en-suites and dressing room at first floor level. External works include provision of new realigned boundary wall with no.4 St. Mary's Road, 2 off street car parking spaces opening off Haddington Place together with provision of new sliding mid steel gate within existing boundary wall, all landscaping works to front, rear and side gardens including raising the height of the side wall to Haddington Place and upgrading works to rear boundary wall.

This is now being constructed subject to the modifications proposed in the current application.

Other applications

The Planner's Report provides (and includes a full description) that there are 3 planning applications relevant to assessment of this planning application. In summary these are:

- 'Reg.Ref.4244/08 where permission was granted by the Council and subsequently on appeal for the demolition of the former St. Mary's Secondary School and construction of 13 houses and 2 apartments and all associated works. This included (c) the change of use of 4 and 6 St. Mary's Road from a convent to two 4 bed family homes and the provision of new landscaping to front and sides (part of Site B). This was subsequently upheld by the Board Ref.PL29S.233816 refers. A copy of this decision is included in the Appendix to this Report.
- This planning application was subsequently significantly altered by Reg.Ref.3413/11 by way of omitting a substantial part of the 'new build' previously permitted by the 'parent permission'.
- Planning permission was granted under Reg.Ref. 3883/10 for relatively minor alterations to the convent building permitted by Reg.Ref.4244/08.

Proximate sites

- Reg.Ref. WEB1082/14 – Permission granted subject to conditions by the Council to no.4 St. Mary's Road for development consisting of the demolition of the existing 2 storey return to rear of no. 4 St Mary's Road, Ballsbridge, Dublin 4 and its replacement with a part single storey, part two storey extension to rear north facing elevation. Works to also include a new single storey extension to the west gable of existing house retaining existing front wall, and new two storey extension to the east gable. External works include provision of new realigned boundary wall with no. 6 St Marys Road and provision of 2 no. off street parking spaces opening off St Mary's Road together with provision of new sliding cast iron gate to match existing railings on St Mary's Road, all landscaping works to front and rear gardens including upgrading works to rear and side boundary.

A copy of this decision is included in the Appendix to this Report.

- Reg.Ref.2581/16 – Permission granted by the Council subject to conditions for amendments to WEB1082/14 to include the addition of an upper floor to the

permitted single storey west side extension to contain 2 ensuite bathrooms with 2 rooflights above, the addition of a cellar store with internal access stairs to be located below the permitted rear kitchen/dining extension, the addition of double doors from the rear of the 2 permitted side extensions direct into the gardens, changing the external finish on the side and rear facades of the 2 permitted side extensions from render to brickwork, the change from slated pitched roof to parapetted flat roof above the upper floor of the permitted 2 storey rear extension, the addition of aluminium framed folding doors and timber pergola to the permitted kitchen/dining rear extension, together with minor changes to the permitted elevations.

This is currently the subject of a separate Third Party appeal to the Board Ref. PL29S.246774 refers.

- Reg.Ref.3590/15 Permission granted by the Council for Demolition of existing buildings and construction of primary school buildings at Haddington Road. This was subsequently upheld on appeal Ref. PL29S.243030 refers.

This site is to the north and is currently under construction and a copy of the Board decision is included in the History Appendix to this Report.

4.0 PLANNING AUTHORITY APPLICATION

Planning and Technical Reports

Engineering Department Drainage Division

They have no objection subject to compliance with standard drainage conditions.

Road & Traffic Planning Division

They note that Condition no.2 of the previous permission Reg.Ref.2583/14 omitted the vehicular access from Haddington Place. They object to the removal of an on-street parking space to facilitate the disabled onsite space and note that on street disabled parking permits can be applied for.

Submissions

Pembroke Road Association submission includes the following:

- They have regard to the architectural character of the area and Conservation Area and are pleased the property is being reverted to residential use and note positively some the redevelopment works that have been carried out.
- They would like to see the cement plinth supporting iron railings removed between nos. 4 and 6 St. Mary's Road and replaced with a granite plinth and railings which would be more in the interests of the visual amenity of this historic streetscape.
- They ask that as this is not a commercial building would it not be possible to find another solution to the wheelchair access and are concerned about the wheelchair ramp at the rear of the property.
- They are concerned as to how raising the roof height of the rear extension and a raised side patio might impact on the adjoining properties at no.4 St. Mary's Road and the Convent on Haddington Place.

- They note that there is also a concurrent application for no.4 St. Mary's Road Reg.Ref.2581/16 refers.

Planner's Report

The Planner had regard to the locational context of the site, planning history and policy and to the submissions made. They note that the original permission conditioned that on site car parking be omitted. The Roads and Traffic Division has recommended refusal of the onsite parking space and as such the proposal is considered to be unacceptable and they recommend that it be omitted.

The second aspect of the application is the raising of the roof level to accommodate a continuous floor level on the ground level. It will therefore increase the height marginally and that and the internal alterations are considered to be acceptable. They recommend a split decision i.e. refusal relative to the parking space and a grant for the internal alterations and raising the height of the roof of the new extension.

5.0 PLANNING AUTHORITY DECISION

On the 3rd of May 2016, Dublin City Council made a split decision. They granted permission subject to 6no. conditions *for the raising of the roof level to accommodate continuous floor level throughout dwelling along with internal alterations*. These include:

- Condition no.2 – provides that the development, comply with the terms and conditions of Reg.Ref.2583/14 shall be fully complied with except where modified by this permission.

They refused permission for the new vehicular access for the following reason: *The removal of an on-street car parking to accommodate a private vehicular access, is contrary to DCC policy and would reduce the supply of on-street car parking. The proposed development would directly contravene Policy SI13 of the DCDP 2011-2017 which seeks to retain on-street parking as a resource for the city, as far as practicable. It is therefore considered that the proposal would seriously injure the amenities of neighbouring properties and as such the proposal is considered to be contrary to the proper planning and sustainable planning of the area.*

6.0 GROUNDS OF APPEAL

A First Party appeal has been submitted by Future Analytics on behalf of the applicant Tom McGrath. This has regard to the Council's Split decision i.e. to grant the modifications to the extension but to refuse permission for the on-site parking space. For clarity they provide that this appeal is made in respect of the decision to refuse permission only. Their grounds of appeal include the following;

- The on-site parking space is required to improve the quality of life for the applicant's mother who has disability issues.
- The proposal would not result in the loss of a parking space in that it will be used by the resident and will provide for mobility access in accordance with planning policy in the DCDP 2011-2017. They quote a number of policies.

- A survey of off street parking in the area has found there to be significant on street capacity on streets in the area. They provide details of this including a table of results and note that the peak time for parking is in association with activity at the school.
- Wheelchair access will be provided to the disabled parking space and they have regard to policy support for people with disabilities and mobility impairment.
- They note that this is a residential area not proximate to business and retail.
- The proposed parking space is located to the rear and side of the building and has no impact on visual amenities or the residential character of the area.
- They have regard to Planning History and Precedent and refer to a number of cases where the Board granted permission for off street parking for residential developments.
- They contend that this proposal is relatively minor and will have no detrimental impacts and provide that each case should be assessed on its merits.
- Appendix 1 includes a Parking Survey carried out between 23rd to 27th of May 2016.

7.0 RESPONSES TO GROUNDS OF APPEAL

There has been no response from Dublin City Council to the grounds of appeal.

8.0 POLICY CONTEXT

As shown on Map E of the DCDP 2011-2017 the site is located within the Z15 land use zoning with an objective: *To protect and provide for institutional and community uses.*

It is proximate to the Z2 zoning i.e. *To protect and/or improve the amenities of residential conservation areas.*

It is also of note that the houses on the opposite side of the street are Protected Structures.

Section 17.9.8 and Appendix 25 address extensions and alterations to existing dwellinghouses.

Section 17.8 refers to Roads and Services and includes reference to design standards for vehicular access. Section 17.40.11 refers to a presumption against the removal of On-Street Parking.

Appendix 8 Section 1 provides the Road Standards relative to Residential Development. This also includes reference to the planning authority's guidance leaflet 'Parking Cars in Front Gardens'.

9.0 ASSESSMENT

9.1 Principle of Development and Planning Policy

Regard is had to the locational context of the site and to parking and access issues in the area. The application site is included in Section 15.10.14 of the Dublin City Development Plan 2011-2017: *To protect and provide for institutional and community uses and to ensure that existing amenities are protected.* It is proximate to the 'Z2' residential zoning where the objective seeks: *To protect, provide and/or improve the*

amenities of residential conservation areas. Having regard to the planning history and policy, it is considered that the principal of residential use on this site has been accepted.

It is of note that the Council in their Split Decision granted permission subject to conditions for the relatively minor modifications proposed to the extension. The First Party provides that this appeal relates only to their refusal of the off-street car parking space. As this is not an appeal against conditions it is not considered that Section 139 of the Planning and Development Act 2000 as amended would apply as this relates only to appeals against conditions. Section 139 (c) provides that where: *the Board is satisfied, having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted.* Therefore it is considered that in this case relative to a Split Decision the application must be considered de novo.

Section 17.9 of the Dublin City Development Plan 2011-2017 provides 'Standards for Residential Accommodation' and S.17.9.1 refers to the 'Residential Quality Standards' and Section 17.9.8 to 'Extensions and Alterations' to dwellings. This provides that well designed extensions will normally be granted provided that they have regard to the amenities of adjoining properties and that the design integrates well with the existing building. Appendix 25 provides 'Guidelines for Residential Extensions' and the general principles include that the proposed extension should not have an adverse impact on the scale and character of the dwelling, or on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight and achieve a high quality of design.

Whereas a well-designed extension is normally permissible in this residential area in accordance with the criteria of Section 17.9.8, and Appendix 25 the issue in this case is whether the proposed modifications to the extension would integrate well or have an adverse impact taking into account the locational context of the dwelling, the restricted nature of the site and the amenities of the adjoining dwellings and the character of the area. These issues including the issue of the provision of the onsite disabled car parking space are discussed further in the context of this assessment below.

9.2 Regard to Planning History

The relevant planning history relating to the recent redevelopment of Nos.4 and 6 St. Mary's Road has been noted above and in the Planner's Report. Nos.4 and 6 previously formed part of an overall convent landholding at St. Mary's/Haddington Place/Haddington Road. A chapel building was previously in place between these two houses. The chapel has been demolished in recent years. The convent building for the Sisters of the Holy Faith is to the rear of the site. The blank wall of this modern building faces the site.

The most recent decision relevant to the subject site is Reg.Ref.2583/14 and a full description of the development relative to the extensions and alterations permitted has been given in the Planning History Section above. Regard is had in Condition

no.1 to the further information and revised drawings submitted on the 26th of June 2013.

Condition no.2 of this permission is also of note and provides:

The proposed vehicular entrance and associated off-street parking spaces shall be omitted from the proposed development.

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

Relative to design issues Condition no.3 provides: *Barge boards shall be provided for no.6 St. Mary's Road, to match the boards provided at no.4 St Mary's Road*

Reason: In the interests of visual and residential amenities.

It is noted that these separate detached properties have been viewed as visually important that the permitted extensions at Nos. 4 and 6 are currently under construction and appear balanced in the streetscape. Therefore it is considered that the concept of an extension to the subject property has been previously accepted on this site. The issue now is whether the proposed modifications would be acceptable and would not impact negatively on the residential amenities and character of the area.

9.3 Design and Layout and differences between that previously granted

Plans have been submitted with the current application showing the residential extensions to no.6 St. Mary's Road permitted in Reg.Ref.2583/14 and that now proposed. As shown on the plans this proposal does not involve an increase in the overall floor area or a further extension to the property i.e the Schedule of Floor Areas provides that the site area is 756sq.m. The proposed revisions show in yellow the area subject to modifications to the rear single storey element of the property. No additional modifications are proposed to the rest of the house. The granted and proposed ground floor plan is similar i.e. 275.4sq.m and first floor area is 179.4sq.m. ie a total of 454.8sq.m. The main difference appears to be the increase in height in the single storey rear extension. As shown on the drawings this is to raise the floor level to accommodate a continuous floor level throughout the building. The details submitted with the application provide that the adaption of the property is to support ease of movement and access within the house and its curtilage. The development also provides for wheelchair ramps up to the rear door of the property. Disabled access is also to be provided for the wheelchair user.

On my site visit I noted that this raising of the floor level has been included in the works done to date. The floor level of the extension is now at a continuous level and is substantially higher than the ground level. The resultant height of the single storey element has increased from 3.5m previously shown to 4.3m. There is a 2.5m stone wall along the boundary with Haddington Place. As shown in the original permission the proposed single storey rear extension was c.3.5m in height i.e the flat roof would appear 1m higher than the boundary wall. The side elevation now shows that the extension would appear c.1.8m higher than this wall. However in view of the set back of the extension from the boundary, provided the external finishes match the

existing, it is not considered to have a significant visual impact on the streetscape. As the property is detached and the extension is set back from No.4 it is not considered that this increase in height will have an adverse impact on the neighbouring property or on the blank elevation of the Convent wall which adjoins the rear of the site. Therefore it is considered that the proposed modifications to the extension are acceptable and it is recommended that these be permitted.

9.4 Regard to the Vehicular Access and Policy issues

Section 17.40.11 refers to On-Street Parking and includes: Dublin City Council will preserve available on-street parking where appropriate. This also provides: *There will be 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 on-street car parking spaces.* Also Policy SI13 in Section 5.1.4.7 seeks: *To retain on-street parking as a resource for the city, as far as practicable.*

Appendix 8 provides the Road Standards for various Classes of Development which includes Section 1 which refers to Residential Development. This includes: *Where driveways are provided, they shall be at least 2.5m or, at most, 3.6m in width, and shall not have outward opening gates.* The design standards set out in the planning authority's leaflet 'Parking Cars in Front Gardens' shall also apply.

This Guidance note includes: The basic dimensions to accommodate the footprint of a car within a front garden are 3 metres by 5 metres. It is essential that there is also adequate space to allow for manoeuvring and circulation between the front boundary (be it a wall, railing or otherwise) and the front of the building. A proposal will not be considered acceptable where there is insufficient area to accommodate the car safely within the garden, and to provide safe access and egress from the proposed parking space, for example near a very busy road or a junction with restricted visibility. In this regard the Site Layout Plan shows that the proposed car parking space would be in the side garden area with frontage to Haddington Place and c.6m (length) x 4.8m(width), however the vehicular entrance at 4m. with a sliding gate, is wider than the maximum 3.6m recommended in Appendix 8.

It is of note that the Council's Road and Traffic Planning Division had regard to policy that seeks to retain on street parking spaces and recommended that the proposed off street parking space and 4m wide vehicular access be omitted from the application and regard is had to the Council's reason for refusal of this aspect of the proposed development. They are concerned about precedent and provide that the applicant is advised that there is a process through which the provision of a disabled car parking space on street can be requested. The Council's decision to refuse reflects this policy and recommendation.

9.5 Regard to First Party Rationale

The First Party provides that the proposed parking space will add considerably to the quality of life of the applicant's mother who has limited movement and will be living

on the ground floor adapted for her use. Also that she has a parking permit for people with disabilities. They provide that the new access route to the onsite wheel chair space is in accordance with the Building Regulations 2010 TGD Part M. In summary they provide that this proposal involves the provision of 1 disabled car parking space, sliding gate onto Haddington Place, the removal of 1 on-street car parking space on Haddington Place.

They provide that it will not lead to a loss of on-site parking as the space would have been used by the resident anyway. Therefore it is in accordance with Section 5.1.4.12 (mobility access) not contrary to Policy SI13 (retention of on street parking areas) of the DCDP 2011-2017. Their appeal has regard to a number of policies including SIO51 i.e: *To provide on and off street disabled driver parking bays in excess of the minimum requirements where appropriate* and also refer to Sections 17.40.5 and 17.40.9 which seek to provide for disabled parking.

9.6 Impact on the Character and Amenities of the Area and Precedent

Therefore it is considered that regard needs to be had to the impact of the proposed provision of this vehicular access and the loss of the on-site car parking space on the character and amenities of the area including on-street parking to ensure that it would not be contrary to planning policy and the proper planning and sustainable development of the area. Minimising the visual impact of creation of the access is also recommended. It is noted in this case that the proposal will not involve the removal of traditional railings or front garden area or detract from the streetscape.

The First Party appeal makes reference to a number of precedent cases where the Board has not upheld DCC decision to refuse the provision of off street parking spaces. It is of note that none of these cases is in proximity to the subject site. However each case needs to be considered on its merits. In this case there is one other vehicular access further to the north on the opposite side of Haddington Place for no. 8 St. Mary's Road South. There are several such accesses onto St. Mary's Lane to the north east however this is more of a mews development area. In view of the proximity to the convent building and the fact that there is not residential facing on the opposite side of Haddington Place it is not considered that this proposal will set a precedent for this type of development in the immediate area.

The front elevation of the house faces the main road St. Mary's Road South. There is a temporary access there which is to be closed up on completion of the construction works. The side elevation of this corner site faces the narrower Haddington Place. Parking is restricted in the area, on one side of the road and there are signs up for pay and display and permit parking. The proximity to the Haddington Road schools including the site for the new school being constructed is noted. At the time of the site visit at c.3pm on a weekday in August the area was lightly parked, however this would be subject to change during school times and if there are any busy events at the Aviva Stadium.

However in this case taking into consideration the locational context and that this proposal is for the provision of a mobility parking on site it is considered that it would

comply with planning policy relative to the provision of disability access and would not detract from the character or residential amenities of the area.

9.7 Other issues

Regard is had to 'Parking Cars in Front Gardens' leaflet which also notes: The combined effect of paving a number of gardens in a street or area increases the risk of flooding and pollution (oil, brake dust, etc). If the Board decides to permit it is recommended that a condition be included to provide for the use of Sustainable Drainage Methods (SUDs). It is also recommended that a condition be included to reduce the width of the vehicular access to a maximum of 3.6m in accordance with the recommended guidelines in Appendix 8 of the DCDP 2011-2017.

9.8 APPROPRIATE ASSESSMENT

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

10.0 CONCLUSIONS AND RECOMMENDATION

While regard is had to the documentation submitted, planning policy relative to the retention of on-street parking and to the DCC reason for refusal for the provision of a vehicular access to provide an on-site parking space on this site, note is also had of the details submitted in the grounds of appeal and to planning policy relative to the provision of disabled car parking. It is also considered that this proposal including the proposed modifications to the extension will not detract from the character and residential amenities of the area.

Having regard to all these issues, it is recommended that permission be granted subject to the conditions below.

11.0 REASONS AND CONSIDERATIONS

Having regard to the land use zoning of the site, to the residential character of the area and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of surrounding dwellings or the visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 CONDITIONS

1(a). The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 30th day of May, 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

- (b) The terms and conditions of the permission for the original development, which was issued under Reg.Ref.2583/14 shall be fully complied with except where modified by this permission.

Reason: In the interest of clarity.

2. The design of the proposed vehicular access shall be amended as follows:

- (a) The vehicular entrance shall be at least 2.5m or at most 3.6m in width and shall not have outward opening gates.
- (b) The on-site parking space in the side garden area shall be a minimum of 3 metres by 5 metres. Only one on-site parking space is permitted.
- (c) The Footpath and kerb shall be dished at the access and the new entrance provided in accordance with the requirements of the planning authority.
- (d) Details of proposed boundary treatment relative to the revised site frontage onto Haddington Place shall be submitted.

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 interests of pedestrian safety and residential amenity.

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.

4. Site development and building works shall be carried only out between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

Angela Brereton,
Planning Inspector
Date: 26th of August 2016