



An
Bord
Pleanála

Inspector's Report ABP-300899-18

Development	PROTECTED STRUCTURE: Permission to remove roof and rear wall of side garage attached to house and to construct three 2-storey dwellings with attic rooms within the rear garden.
Location	Rear Garden of 10, Grosvenor Road, Rathmines, Dublin 6.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2830/17
Applicant(s)	Liam Slattery
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Liam Slattery
Observer(s)	Rathgar Residents Association, Dr. Mervyn R.H. Taylor and Leslie Daly.
Date of Site Inspection	21 st May 2018
Inspector	Patricia Calleary

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of c.1,036 sq.m comprises a large part of the rear garden associated with a substantial semi-detached nineteenth-century two storey over garden level dwelling at No.10 Grosvenor Road, Rathmines in Dublin 6. The house, which is a protected structure is located on the northern side of Grosvenor Road and the rear garden, c. 80m in length, backs onto St. Louis High School, a three-storey structure. The site is 'L' shaped and the main portion to the rear of the existing property measures c. 62m by c.15.7m wide. Boundaries to the rear are marked by walls and mature trees.
- 1.2. The house is attached to House No.9 to the immediate east, which is also a protected structure. Vehicular access serving the house and site are provided through an entrance comprising a metal gate and stone pillars off Grosvenor Road. There is a separate pedestrian entrance, also off Grosvenor Road. The house is two bays wide and the formal front entrance door is accessed via flight of granite stairs and the door is flanked by columns with an arched fanlight above. The house is finished to the front in brick with a light-brown colour and with traditional lime-mortar pointing. To the front, the windows include six-over-six paned sliding sash windows at first and second-floor level and three-over-six panel sash windows at garden level. The roofs, formed by four elements, are concealed from view behind by a parapet.
- 1.3. The area to the front of the house reads as a semi-private defensible space to the public street, enclosed by decorative iron railings on a granite plinth wall. The side and rear of the property feature rendered brickwork. There is a flagstone path leading to the granite stairs, which in turn leads to the entry level floor (ground floor) a storey above garden level.
- 1.4. There is a single-storey garage with a mono-pitch roof, attached to the west side of the house and this is included within the appeal site. To the front, it has a random rubble stone wall façade with a brick arch opening and an arched timber panel double door leading to the garage space. The roof is concealed behind a parapet.
- 1.5. Part of a shared private laneway with access off Grosvenor Place terminates at the west of the appeal site / at a position to the rear part of the site.

2.0 Proposed Development

- 2.1. Permission is sought to remove the corrugated plastic roof and rear blockwork and timber wall of the garage structure attached to the side of the house and to construct three houses in the rear garden, including two semi-detached dwellings which would be positioned to the rear of the existing garden and a detached dwelling, positioned between the host house (No.10) and the proposed semi-detached houses at the rear. The house designs are all two-storey in scale with attic rooms and projecting roof windows to the front and rear of each.
- 2.2. Access would be from Grosvenor Road through the existing gated opening along the roadway, c.2.4m in width leading onwards via the altered garage structure attached to the side of the house with a double door opening measuring c.2.5m with a timber panel door insert.
- 2.3. In addition to the standard planning drawings, the application was accompanied by a conservation statement. The response to the further information was accompanied by a landscape plan, a tree survey report and an assessment of flood risk and surface water management proposals.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority issued a decision to refuse permission. It considered the proposal to introduce three houses within the garden associated with the protected structure, particularly the introduction of a third line of buildings between the protected structure and the proposed houses to the rear, would have a significant and unacceptable impact on the setting and character of both the protected structure and the adjoining protected structures. It was stated that the proposed development would diminish the setting of the protected structure, would seriously injure the amenities of the residential conservation area and would be contrary to the policies and objectives of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

3.4. **Third Party Submissions**

- 3.4.1. Submissions were received from 4 third parties during the Planning Authority's consideration of the Planning Application. The points raised are summarised in the planning officer's report on file and are similar to those contained in the observations made on the first party appeal. Overall it was contended by the observers that the development would be incompatible within the curtilage of a protected structure in a residential conservation area.

4.0 **Planning History**

4.1. **Appeal site**

- 4.1.1. There is no recent planning history pertaining to the appeal site.

5.0 **Policy Context**

5.1. **Development Plan**

- 5.1.1. The Dublin City Development Plan 2016-2022 is the statutory plan for the area. The site is zoned '**Residential Neighbourhood (Conservation Areas) – Zone Z2**', with a corresponding objective 'to protect and/or improve the amenities of residential conservation areas'. The general objective for such areas 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.

- 5.1.2. The following provisions are considered relevant.

- **Chapter 11 – Built Heritage and Culture** including: Section 11.1.5.3: Protected Structures – Policy Application, Policy CHC2: To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and Policy CHC4: To protect the special interest and character of all Dublin's Conservation Areas.
- **Chapter 16 – Development Standards** including: Section 16.10.8: Backland development - Applications for backland development will be considered on their own merits, Section 16.3: Landscaping, Section 16.10.2 and 16.10.3 (Residential quality standards for Houses), Section 16.3.3 (Existing Trees and

their protection) and Section Section16.5 (Plot ratio) and Section 16.6 (Site coverage), Section 16.10.10 (infill housing should have regard to the existing character of the street, comply with the appropriate minimum habitable room sizes, Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard).

- **Volume 4** contains the record of Protected structures including the host house, No.10 Grosvenor road, Rathmines and neighbouring properties along Grosvenor road.

5.2. **Architectural Guidance**

- 5.2.1. Architectural Heritage Guidelines for Planning Authorities 2011 (Department of Arts, Heritage and the Gaeltacht). This document provides guidance on the protection of the architectural heritage.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. An appeal was received from Brian O' Donoghue Architects representing the first party. The grounds of appeal are summarised as follows:
- Provides details of pre-planning consultations with the planning department, traffic department and conservation officer.
 - No objection was received from the Drainage Division.
 - Section 16.10.8 includes provision for comprehensive backland development.
 - Open space for the new houses and the existing house would exceed minimum standards. Would be possible to increase open space for the main house by borrowing space from the rear gardens.
 - No overshadowing would result.
 - Any proposed first-floor windows would serve staircase landings or bathrooms and would not be present in habitable rooms. Can accept conditions so as not to result in overlooking (obscure glazing, bottom of window above eye level or omit windows).

- Car parking can be reduced from six spaces to three and return the space to landscaping.
- Agreeable to a condition for a landscape plan to be submitted to the Planning Authority.
- Can agree finishes to the proposed houses with the Planning Authority.
- All room sizes will comply with Development Management Standards.
- References housing shortage reported in media.

6.2. Planning Authority Response

6.2.1. No response on the appeal file.

6.3. Observations

6.3.1. Observations were received from three parties including Rathgar Residents Association, Dr. Mervyn R.H. Taylor, 7 Grosvenor Place, Rathmines and Leslie Daly of 11 Grosvenor Road, Rathmines. The principal collective issues raised can be summarised as follows:

- Protected structures should not be considered in terms of minimum residential standards.
- Given the size and scale of the development, it would be incompatible with the established architectural or residential setting of the area including neighbouring properties.
- Questions where the vehicles associated with the existing house would park and how the traffic which would be generated would be managed. Rear laneway is too narrow to accommodate fire engine access.
- Access road width of 2.4m does not lend itself to traffic movements of the type envisaged and concerns exist that the heritage gateway may be widened, which would result in serious degradation to the protected structure. Development would give rise to a traffic hazard because of substandard access arrangements.

- Concerns are raised regarding an opening recently created from the rear access and notes the concerns raised by Dublin City Council regarding the loss of kerbside parking.
- Windows on upper floors would result in overlooking onto neighbouring protected structures.
- Surface water proposals are inadequate.
- Will place a burden on water supply in a situation of poor water pressure.
- Layout is substandard for the 'Z2' zone.
- The existing house would lose significant garden space which would not be appropriate in a 'Z2' zone. Adjoining houses retain ample garden spaces and if developed, as proposed, No.10 would be at variance with the pattern of development in the area.
- Concerns raised regarding potential for loss of architectural features associated with the protected structure (e.g. flagstones, cut stone steps).

6.4. Further Responses

- 6.4.1. The Board consulted with An Chomhairle Ealaíon, Development Applications Unit and Fáilte Ireland. No responses were received.

7.0 Assessment

7.1. Introduction

- 7.1.1. The main planning issues arising in this appeal include the following:
- Setting and character of the Protected Structure
 - Landscaping and Site Details
 - Residential Amenity
 - Access and Traffic
 - Appropriate Assessment Screening

7.1.2. My considerations of each of the above issues are set out under the respective headings below.

7.2. **Setting and character of the protected structure**

- 7.2.1. The proposed development would involve the removal of a mono-pitch corrugated plastic sheeted roof and rear blockwork and timber wall of the side garage single-storey structure attached to the house on site, which is part of a protected structure and its curtilage at No.10 Grosvenor road. The original front and side wall of the garage are stated to remain unaltered. As proposed, the altered garage would allow for vehicular access through to the main part of the appeal site which comprises the majority of the rear garden associated with the house. Beyond the access, it is proposed to introduce three new houses in the rear garden and these would be laid out as two semi-detached houses to the rear with their gardens backing onto St. Louis secondary school. A detached house would be positioned as a third line, situated between the existing house (No.10) and the two proposed semi-detached houses.
- 7.2.2. The development plan states that backland development can cause a significant loss of amenity for existing properties and that backland development proposals will be considered on their own merits. The Planning Authority's conservation officer recommended refusal of planning permission, partly as the development would result in a minimal remaining garden as a setting for the protected structure and that it would cause a detrimental impact of the protected structure and adjoining protected structures. In response to the further information request, the applicant asserts that the development would not intrude on the protected structure setting. It is also stated that the protected structure would remain the dominant feature on site having regard to the heights of the houses proposed (8.93m), versus the height of the protected structure (11.79m) and the separation distances proposed including 28.1m between proposed detached house No.3 and the existing host house. The distance from this proposed house (No.3) and the two semi-detached houses is stated would be 16.4m. On review of the information contained in the response, the conservation officer states that their initial advice and recommendation to refuse permission still stands.

7.2.3. Noting the 'Z2' land-use zoning objective which is 'to protect and/or improve the amenities of residential conservation areas' and the details of the proposed development, I consider the backland nature of the development proposed in this instance would result in excessive encroachment into the garden of the host house, which is a protected structure. The proposals involve replacing the majority of the existing garden with three houses across two lines and the replacement of the garden with excessive hardstanding areas for car parking and an access road through the current garden space. Collectively this would result in an unacceptable negative impact on the setting and character of the protected structure and adjoining protected structures. It would serve to diminish the amenity associated with the protected structure and would fail to protect its special architectural interest, contrary to Policy CHC2 of the Development Plan. In addition, it would fail to protect the special interest and character of the residential conservation area as is required to be protected under Policy CHC4. Accordingly, I recommend that the development is refused on this basis.

7.3. Landscaping and Site Details

7.3.1. The Planning Authority stated their concerns regarding the initial landscape proposals and the initial proposal for accommodation of six cars to serve the three-house development which it considered was excessive in a backland context. In response to the request for further information, the appellant submitted a landscape plan and tree survey report and a proposal to reduce the car parking from six to four car spaces. As noted by the Planning Authority and notwithstanding the proposal to reduce the number of car spaces, the hard-standing area associated with the car parking was not in itself reduced or replaced with any additional landscaping.

7.3.2. It is proposed to remove 19 trees from the site and retain 5 trees. However, based on the location of the trees proposed to be retained in an area of the proposed access roadway, it is likely that some of the remaining trees may also be lost or significantly damaged. The loss of the majority of the trees would be contrary to policy regarding maximum retention of suitable trees as a benchmark of sustainable development. No details of boundary walls / fence treatment have been submitted as is required under Section 16.2.2.4 (Boundary Walls and Railings) of the applicable current Dublin City Development Plan. While such details could possibly be secured

by way of a planning condition, it is important in the context of the protected structure that they are considered at the outset and presented for consideration of the planning application. In this regard, the development would further undermine Policy CHC2 (protect the special interest of the protected structure) and CHC4 (protect the special interest and character of Dublin's conservation areas).

- 7.3.3. Having regard to the foregoing, I recommend that permission should be refused because of inadequate landscaping provision and loss of substantial number of mature trees.

7.4. Residential Amenity

- 7.4.1. The Planning Authority raised concerns regarding overlooking of neighbouring properties from the proposed windows located on the side elevations at the first-floor level of the proposed dwellings, as well as from the proposed rear windows at second floor / roof level and they considered that all of these upper windows should be omitted noting the backland development proposal. This formed an element of the Planning Authority's request for further information. In response, the appellant states that the side windows do not serve habitable rooms and they would accept a condition that these would be fitted with obscure glazing. I note the top / second floor is served by a stairway and the area as presented on the drawings is identified as a study room and is therefore a habitable room, akin to a bedroom, and it would not be appropriate to fit such a window serving a habitable room with obscure glazing, as it would reduce the outlook from a room capable of being used for other uses, including as a bedroom. In time, there may be a desire to change obscure glazing to clear glazing in the study room at attic level and this would not be practical to enforce in the long term.
- 7.4.2. Given the backland nature of the development and to avoid the necessity to fit only obscure windows at the second-floor level, should the Board be minded to grant permission, I recommend that the windows in the side elevations at first floor level and serving non-habitable areas (landings) would be required to be fitted with obscure glazing for each of the three houses. To further prevent overlooking, I also recommend that the projecting windows at roof level serving the space marked as 'study' should be omitted to be replaced by roof windows which would not project beyond the roof plane. I recommend that these matters can be regulated by way of

the attachment of a planning condition in the event that the Board are minded to grant permission.

- 7.4.3. Having regard to the foregoing and subject to the attachment of a condition requiring that the windows serving non-habitable areas (landings) along the gable walls be fitted with obscure glazing and projecting dormer style roof windows being replaced with windows aligned along the roof plane, permission should not be refused on the basis on residential amenity.

7.5. Access and traffic

- 7.5.1. As noted on the drawings submitted and based on the information gathered during my site visit, the main vehicular access to the site would be off Grosvenor Road. The access currently serves the protected structure on the site and it is 2.4m wide with metal gates. Within the curtilage of the site, vehicular access would continue through a 2.5m high archway of the current side garage attached to House No.10, leading onwards to the primary part of the appeal site to the rear of the house. In response to a request for further information, the appellant states that they propose to remove one pier of the feature entrance off Grosvenor Road to accommodate construction traffic and that the laneway off Grosvenor Place to the rear would provide access for lighter construction vehicles. Subject to the submission and agreement of the methodology for the protection of the pier during its removal and refitting post construction and the submission of a construction management plan to be agreed with the Planning Authority, this is considered reasonable for the construction stage. I note the Roads and Transport Planning Division report comments requiring that access to the proposed development should be provided from Grosvenor Road only.
- 7.5.2. In relation to the traffic proposals in the longer term, the proposal requiring all cars/vehicles to manoeuvre alongside the host house, through what is now the garage door, would lead to an overly constrained arrangement.
- 7.5.3. Notwithstanding that the Planning Authority's transportation section had no objections with the development from a transportation perspective subject to a number of conditions, I am not satisfied that the vehicular access can safely accommodate two-way traffic or include adequate provision for the fire and emergency services. I note the laneway at the rear from Grosvenor Place is very

narrow and is not taken in charge by the Local Authority and as such this would not offer an alternative solution.

- 7.5.4. Overall, I do not consider that the constrained arrangement of vehicular access through a narrow archway opening in a wall of the current garage attached to the side wall of House No.10 is acceptable or would not result in a traffic hazard and I recommend that planning permission is also refused for this reason.

7.6. **Appropriate Assessment Screening**

- 7.6.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced residential area and to the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

- 8.1. I recommend that permission is **refused** based on the following reasons and considerations.

9.0 **Reasons and Considerations**

- 9.1. The proposed development is located in an area which is zoned 'Residential Neighbourhood (Conservation Areas) - Z2', with a corresponding land-use zoning Objective 'to protect and/or improve the amenities of residential conservation areas'. The proposal for the addition of three houses in the rear garden of a protected structure with vehicular access to be provided through the existing garage structure, by virtue of its proximity to the existing house, would result in significant encroachment into the curtilage of a protected structure and would consequently result in a minimal garden setting and an unacceptable impact on the setting and character of the protected structure and the adjoining protected structures. The proposed development would undermine Policy CHC2 (protect the special interest of the protected structure) and CHC4 (protect the special interest and character of Dublin's conservation areas). The development would also result in a substantial loss of trees and poor landscape proposals and excessive space reserved for car

parking which would further detract from the Protected Structure within a residential conservation area. The proposed development would also result in a constrained arrangement of vehicular access and would generate a traffic hazard contrary to policy for infill housing expressed through Section 16.10.10. The proposed development would therefore be contrary to the polies and objectives of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

Patricia Calleary
Senior Planning Inspector

30th May 2018.