



An
Bord
Pleanála

Inspector's Report ABP-301724-18

Development	PROTECTED STRUCTURE; Change of use from office use back to single residential dwelling including internal associated development and refurbishment works, removal of existing commercial car park, construction of three dwellings and associated works.
Location	9 Leeson Park, Ranelagh, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4456/17
Applicant(s)	Nadine Cosgrove
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	David Shackleton Hester Scott
Observer(s)	None

Date of Site Inspection

31st August 2018 & 3rd September
2018

Inspector

Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of Leeson Park. On site is a detached two-storey over garden level/basement building, a Protected Structure. This is currently in office use. There is a hard surface car park to the rear, accessed via the side of the existing building. The stated site area is 1,367 sq. m.
- 1.2. The immediate area along Leeson Park mainly comprises similar substantial detached and semi-detached Protected Structures in residential, embassy and nursing home use. A part-two storey/part-three storey apartment development is located to the rear of the site at Berystede.

2.0 Proposed Development

- 2.1. PROTECTED STRUCTURE; Change of use from office use back to single residential dwelling including internal associated development and refurbishment works, removal of existing commercial car park, construction of three dwellings and associated works..

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Grant permission. There are no conditions of note.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority. Points of note are as follows:

- The restoration of the property to single family dwelling use is supported/will include many of the previous inappropriate interventions associated with its existing office use.
- Reduction of the extensive car park area will have a significant beneficial impact on the building.

- Proposed mews buildings will have an impact on the setting of the house. However will improve the situation over and above the existing car park.
- Considerable distance between the buildings/garden is sufficiently long to provide adequate separation.
- Form of the proposed dwellings would be broken down by the use of curved roofs, roof terraces.
- Additional information was sought in relation to the following (i) details of how vehicles access and egress the site without conflict (ii) revised car parking dimensions to meet minimum standards (iii) Swept path analysis to demonstrate sufficient turning space (iv) legal interest or written consent of the neighbouring owners for relocation of the existing gate piers (v) landscaping plan providing detail of stone boundary walls and mature trees to be retained.
- Following receipt of additional information, which was considered satisfactory, the recommendation was to grant permission subject to conditions.

3.2.2. Other Technical Reports

Drainage – No objection subject to conditions.

Roads and Traffic – No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. A number of Third Party Observations were received. The issues raised are covered within the Third Party Appeal submissions.

4.0 Planning History

4.1.1. 0239/14 – Split Decision – Section 5 Declaration for works.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022.

5.1.1. The site is located in an area that is zoned Objective Z2 (To protect and improve the amenities of residential conservation areas) under the provisions of the Dublin City Development Plan 2016-2022. Under this land use zoning objective, residential development is a permissible use.

5.1.2. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Policy CHC2 - To ensure that the special interest of protected structures is protected.
- Policy CHC5 – To protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas.
- Section 16.2.1 Design Principles.
- Section 16.2.2.2 Infill Development.
- Section 16.10.2 Residential Quality Standards – Houses– sets out standards to be achieved in new build houses.
- Section 16.10.3 Residential Quality Standards – Apartments and Houses.
- Section 16.10.8 Backland Development - *Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists. Backland development is generally defined as development of land that lies to the rear of an existing property or building line. The development of individual backland sites can conflict with the established pattern and character of development in an area. Backland development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. By blocking access, it can constitute piecemeal development and inhibit the development of a larger backland area. Applications for backland development will be considered on their own merits.*

5.1.3. The following Section 28 Ministerial Guidelines is of relevance to the proposed development.

‘Architectural Heritage Protection Guidelines for Planning Authorities’ (2011).

‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (May 2009).

5.2. Natural Heritage Designations

5.2.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Third Party Appeals have been received on behalf of (i) David Shackleton and (ii) Hester Scott. The addresses of the appeals as stated on the appeal submission are stated as Garden Floor, 9 Leeson Park, Dublin 6 and 9 Leeson Park, Dublin 6, respectively. This is the appeal site address however. Reference is made to the proposed development at No. 8 Leeson Park. This is not correct. However it is likely, having regard to the content of the appeals, that the correct address of both the appellants is, in fact, 8 Leeson Park.

6.1.2. The Grounds of Appeal are summarised below:

Impacts on the Protected Structure

- Proposed bulky scale and massing of the proposed three-storey dwellings is at variance with the established character of the Protected Structure on and adjacent to the subject site.
- There is no assessment of the impact on the protected structure in the planner’s report dated 13th February 2018.

Impacts on Amenity

- Impacts on visual amenity of surrounding properties, in particular from the rear private open space of the dwelling to the south of the appeal site, (No. 8).

- These issues were raised at application stage/are not acknowledged in either of the planner's reports.
- The proposals constitute overdevelopment.
- Backland development can result in loss of privacy, overlooking, noise disturbance and loss of mature vegetation/landscape screening/not considered in the planner's report.
- Applicants have not justified the provision of an additional three dwellings of significant size on this spatially restrictive site.
- Height and lack of setback on the boundary greatly impacts on residential amenity.
- Development is contrary to Development Plan policy.

Traffic and Parking

- Revisions to layout/access arrangements do not go far enough to mitigate against the potential traffic issues that will be created both exiting and accessing the subject development.
- Cars will still have to reverse out onto Leeson Park Road as a result of traffic build up along the land.
- Clients would also have concerns regarding the layout of parking spaces within the development.

Other Issues

- No details of lighting/concerns in relation to lighting spillage/impact on garden.
- Landscaping – Only minimal landscaping proposed along southern boundary/no increase in the height of the boundary wall.

6.2. Applicant Response

6.2.1. The response of the First Party Appellant is summarised below:

General

- Planning Authority were in full support of the development proposal.

- Unprecedented levels of housing demand are now a critical issue in the current market.
- Issues raised by the Third Party Appeals are largely subjective.
- Planning Authority has fully addressed all matters relating to Third Parties.

Impact on the Protected Structure

- Proposal was designed following feedback from Conservation Consultant.
- Conservation Officer in DCC was in favour of the development.
- Proposal represents an appropriate and sensitive design response.

Impact on Surrounding Amenity

- Proposal was designed to specifically protect all adjoining residential amenity.
- There is no undue impact on the garden of No. 8 and the proposal has been designed so no overlooking will occur.
- DCC agreed with design approach.

Traffic and Parking

- Removal of the extensive parking to the rear will ensure a significant reduction in traffic movements to and from the site/acknowledge by DCC's Roads and Traffic Department.
- Amendments were made at Further Information stage to ensure more efficient traffic circulation within the scheme and at the access/egress to the site.

Other Issues

- Lighting/Light Spillage – Happy to accept a condition relating a lighting plan, with identified lux levels.
- Landscape/Boundary – Proposal includes a high quality landscaping scheme.

6.3. Planning Authority Response

6.3.1. None.

6.4. Observations

6.4.1. None.

7.0 Assessment

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Residential Amenity
- Design/Impact on Protected Structures
- Traffic and Parking
- Other Issues
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The site is zoned 'Z2' under the Dublin City Development Plan, 2016-2022. The stated objective for 'Z2' zoned land is "to protect and/or improve the amenities of residential conservation areas". The principle of residential development is generally acceptable on 'Z2' zoned land, subject to safeguards.

7.2.2. Section 16.10.8 of the Development Plan refers to Backland Development. This states that, *inter alia*, the development of individual backland sites can conflict with the established pattern and character of development in an area and can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. However, it does not however rule out well integrated backland development and states that applications for backland development will be considered on their own merits.

7.2.3. I have had regard also to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (May 2009). Section 5.9 of these Guidelines refers to infill residential development and notes that potential sites may

include backland areas. In assessing applications for infill development, the guidelines note a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

- 7.2.4. Therefore, while the principle of a backland development can be supported within the residential land use zoning, it needs to be ascertained whether the proposed development on the appeal site is in keeping with the established character and pattern of development in the vicinity, and would not be detrimental to the amenities of adjoining residential properties or the character of the area.

7.3. Impact on Residential Amenity

- 7.3.1. The two Third Party Appeals have raised the issue of residential amenity, in particular the impacts on No. 8 Leeson Park, having regard to loss of privacy, visual amenity, noise disturbance and impacts of the proposed lighting. It is contended by the Third Parties that the proposal constitutes overdevelopment of the site.
- 7.3.2. The First Party states the design, including the landscaping proposals, minimises any impact on surrounding amenity.
- 7.3.3. The proposals will result in built form on the boundary with No. 8 Leeson Park to the south of the appeal site, and on the boundary with the apartment development (Berystede Apartments) and No. 10 Leeson Park to the north.
- 7.3.4. In relation to the impact on No, 8 Leeson Park, the proposal will result in built form approximately 9m high and 9.7m wide on the boundary with the garden of No. 8. In relation to possible overshadowing of the garden of No. 8, I note the appeal site is located to the north/north-west of No. 8. As such there will be no overshadowing for the majority of the day although it is possible the late evening sun may be impacted upon. However I do not consider that this impact would be material.
- 7.3.5. In relation to a loss of visual amenity as a result of the built form on the boundary, the outlook of the garden will be reduced as a result of the dwellinghouses. However, sufficient outlook remains in my opinion, and the visual impact of the houses will be softened by existing 1.4m high boundary wall and hedgerow, as well as by the existing mature trees within the garden of No. 8.

- 7.3.6. In relation to the impact on the Berystede Apartments to the north (Units 1-12), there will be some overshadowing of this amenity space. However there is existing shading as a result of the mature vegetation, including relatively substantial mature trees on the boundary and as such I do not consider there would be a significant adverse impact on this area of amenity space.
- 7.3.7. In relation to the impact on visual amenity, from the apartments themselves and from the rear amenity space serving these units, the dwellings will be partially screened by the existing mature trees within the amenity space. The rear elevation of the Units 1-12 is set back 17.6m from the boundary of the appeal site. As such I do not consider that the proposal would result in an overbearing impact when viewed from these residential units.
- 7.3.8. To the west and north-west of the appeal site, there is a two-storey apartment block within the Berystede development (Units 25-32). There is a 2.9m high limestone wall to the western boundary of the appeal site, and it is proposed to retain the mature trees to this boundary. This will provide substantial screening of the development. Additionally, the proposed dwellings are set back 7.5m from the western boundary of the site. As such, I do not consider that there will be a material impact on Units 25-32.
- 7.3.9. In relation to the impact on the rear of No. 10 Leeson Park, currently in use as a nursing home, there is only very limited built form on this boundary and as such I do not consider that there will be a material impact on this property.
- 7.3.10. No 24 Chelmsford Avenue, to the south-west of the site, has windows to the side elevation that afford views towards the site. The proposed windows to the rear of the dwellings under consideration here will not be directly opposing these side elevation windows and as such I do not consider that any overlooking of this property will result.
- 7.3.11. In conclusion, I consider that that proposal will not have a material impact on the residential amenity of surrounding properties.

7.4. Design/Impact on Protected Structures

- 7.4.1. In relation to the appearance of the dwellings to the rear of the main Protected Structure, the design approach is a contemporary approach, with a mixed pallet of materials proposed. The proposed dwellings are three stories in height. However the

curved form of the roof minimises the scale of the dwellings, while the form and bulkiness is broken up by setbacks and the insertion of roof terraces. In my view, the overall scale of the dwelling houses is appropriate for their context and represents an acceptable quantum of development, relative to the overall site area.

- 7.4.2. In relation to the impact on the existing Protected Structure on site, there are two main issues in this regard, the impact of the change of use from office to residential and the works to facilitate same, and the impact of the proposed houses on the setting of the Protected Structure on the appeal site.
- 7.4.3. In relation to the internal works at 9 Leeson Park, I note that a Conservation Report has been submitted with the application (dated November 2017). This states that the significance of No. 9 Leeson Street lies primarily in its contribution to the architectural character of the Leeson Street streetscape and setting within the greater Rathmines Township area. It is noted that the property has undergone alterations at basement and first floor level which has resulted in the loss of architectural detail. It is further noted that the rear setting of No 9 is of lesser significance than the front.
- 7.4.4. It is further noted with the Conservation Report that the most extensive works will be to the basement, which was historically subservient to the upper floors and which retains few features of significance. Other extensive alterations are mainly confined to those rooms which have historically been altered. The proposal includes localised and minor repair works to surviving architectural details and features as well as repairs to the brickwork, pointing and masonry on the front façade.
- 7.4.5. In terms of the impact of the dwellings on the setting of the Protected Structure, the Conservation Report notes that there will be a significant impact on the rear of the site, with the removal of the existing car parking. Having regard to the separation distance from the proposed dwellings to the Protected Structure, and having regard to the limited visibility of the dwellings from Leeson Park, it is concluded that the impact on the Protected Structure will be minimal, as will the impact on adjacent Protected Structures.
- 7.4.6. I concur with the conclusions contained within the Conservation Report. The internal works have been for the most part confined to those rooms where either previous unsympathetic works have taken place and/or where there is limited or no

architectural features of significance. The works to restore the original features are positive as the change of use itself which restores the original intended use of the building.

- 7.4.7. In relation to the impact of the proposed dwelling on the setting of the Protected Structures, I concur with the conclusions of the submitted Conservation Report. There is a significant setback from the proposed dwellings to the rear of the Protected Structure, ranging from 22m to 25m. The dwellings, while 3 storeys in height, have a form which minimises their overall bulk and scale. Of key significance is the currently unsympathetic use of the rear area as a hard surface car park, and the removal of this feature is a positive outcome which will benefit the setting of this, and adjoining Protected Structures.

7.5. **Traffic and Parking**

- 7.5.1. The Third Party appeals raises the issue of traffic and parking, and state that the arrangements will lead to vehicles reversing onto Leeson Park, resulting in traffic build up.
- 7.5.2. The First Party states that the proposals were revised to improve the circulation within the site, and to improve access/egress arrangements, and no objection was made by the Roads and Traffic Department of DCC.
- 7.5.3. It is my view that the proposal will result in a significant reduction in the levels of vehicle movements to and from the site, with the removal of the existing car parking area, which is currently facilitating the parking of approximately 16 vehicles. There is a total of 8 no. car parking spaces on the site as proposed. Details provided at application stage, and at Further Information Stage, show that vehicle turning movements can be accommodated on the site, with sufficient access and egress arrangements, to ensure no traffic conflict. I am satisfied that the impact on the surrounding road network will be minimal and consider that the overall parking arrangements, including number of spaces, is acceptable, having regard to Development Plan standards.

7.6. **Other Issues**

- 7.6.1. Residential Design Standards – The proposal complies with the standards set out in Development Plan in relation to overall floor area, minimum room sizes and private open space.

- 7.6.2. Lighting – I note the concerns of the Third Party Appellants in relation to possible light spillage. The First Party have stated that they are willing to accept a condition in this regard. I consider that this will ensure no light spillage into adjacent properties.
- 7.6.3. Foul Drainage/Stormwater Drainage/Flooding – Foul water is ultimately connected to the existing public combined sewer system. The development will incorporate SUDs in the management of stormwater. The site is located within Flood Zone C with a low probability of flooding.
- 7.6.4. **Appropriate Assessment**
- 7.6.5. Having regard to the nature and scale of the proposed development, a change of use from office to residential and the development of three dwelling houses, within a serviced area, and having regard to the separation distance to the nearest European site, 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 the conservation objectives of any European site.

8.0 Recommendation

- 8.1. Grant Permission.

9.0 Reasons and Considerations

Having regard to the zoning objective for the site, the pattern of development in the vicinity and the policies of the current Dublin City Development Plan 2016-2022, it is considered that the proposed development would not seriously injure the residential or visual amenity of the area and would not detract from the character or setting of the Protected Structure on the appeal site, nor any adjacent Protected Structures and would not have a material impact on the surrounding road network nor would it lead to the creation of a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. 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 submitted on the 4th April 2018, 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.

Reason: In the interest of clarity.

2. a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

(b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

Reason: To ensure that the integrity of the Protected Structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.

3. A schedule and appropriate samples of all materials to be used in the external treatment of the development, shall be submitted to, and agreed in

writing with, the planning authority prior to commencement of development.

Reason: To ensure an appropriate standard of development.

4. The landscaping scheme shown on Dwg. No. 01 'Landscape Design' as submitted to the planning authority on the 7th December 2017, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

5. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

6. Proposals for a house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development. Thereafter, all street signs, and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

7. Details of any external lighting proposals shall be submitted to, and agreed in writing with, the planning authority. The lighting scheme shall be designed to minimise light spillage from the site to adjoining properties.

Reason: In the interest of residential amenity.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

9. 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.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

11. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or

other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Rónán O'Connor
Planning Inspector

03rd September 2018

