



An
Bord
Pleanála

Inspector's Report ABP-303345-19

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| Development | Protected Structure: Alterations to and widening of gate, installation of charging point for electric vehicle, landscaping and associated site development works. |
| Location | 60, Kenilworth Square South, Rathgar, Dublin 6 |
| Planning Authority | Dublin City Council South |
| Planning Authority Reg. Ref. | 4076/18 |
| Applicant(s) | Bryan & Sharon Yourell Lawler |
| Type of Application | Permission |
| Planning Authority Decision | Refuse |
| Type of Appeal | First Party V Refusal |
| Appellant(s) | Bryan & Sharon Yourell Lawler |
| Observer(s) | Rathgar Residents Association |
| Date of Site Inspection | 26 th February 2018 |
| Inspector | Ronan O'Connor |

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1.0 Site Location and Description

- 1.1. The site is located on the south side of Kenilworth Square. On site is a three-storey dwelling house with a front and rear garden. This is a Protected Structure.
- 1.2. There is railings and pedestrian access gate to the front boundary with on-street parking bays on Kenilworth Square South.

2.0 Proposed Development

- 2.1. Protected Structure: Alterations to and widening of gate, installation of charging point for electric vehicle, landscaping and associated site development works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse permission for one reason relating to a loss of an on-street parking space and parking within the curtilage of a Protected Structure.

3.2. Planning Authority Reports

3.2.1. Planning Reports

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

- The proportion and detail of the existing decorative cast iron pedestrian gate enhances the character of the streetscape and their loss is not considered to be appropriate.
- Loss of significant area of lawn to the front.
- Would set an undesirable precedent and would likely injure residential amenity.
- Negative impact on the character and amenity of the conservation area and setting of the Protected Structure.
- Proposal would reduce the number of spaces available for other residents and visitors to the area.

- Recommendation was to refuse permission.

3.2.3. Other Technical Reports

Roads and Traffic Planning – Proposal would reduce supply of on-street car parking/contravene Policy MT14 of the Dublin City Development Plan.

Drainage – No objection subject to conditions.

Conservation – Object to proposal. Impact on the streetscape/setting of Protected Structure/Loss of original fabric and character.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. One submission was received. The issues raised are covered within the observations on the appeal.

4.0 Planning History

3854/17 – Grant – Renovation/3 storey extension to rear/reinstate as a single family house.

Appeal Ref 300364 (3850/17) – Grant – 2 no. 3 storey mews houses accessed off Garville Lane/subdivision of site.

5.0 Policy and Context

5.1. Development Plan

Dublin City Development Plan 2016-2022.

The site is located in an area that is zoned Z2 “To protect and/or improve the amenities of residential conservation areas”.

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 CHC4 & CHC5 – To protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas.

Appendix 24: Protected Structures and Buildings in Conservation Areas.

Section 16.10.18 Parking in the Curtilage of Protected Structures and in Conservation Areas.

Policy MT14 - To minimise loss of on-street car parking, whilst recognizing that some loss of spaces is required for, or in relation to, sustainable transport provision, access to new developments, or public realm improvements.

- 5.1.1. The following Section 28 Ministerial Guidelines are of relevance to the proposed development.

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

5.2. Natural Heritage Designations

- 5.2.1. None.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, a vehicular entrance to serve one off-street parking space and the installation of an electric charging point, and having regard to the separation distance to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The First Party Ground of appeal, as submitted by Tom Phillips and Associates on behalf of the applicants, are as follows:

- No assessment is made of the issue of electric vehicles.
- Objective MT025 supports the growth of electric vehicles and associated charging points – not restricted to on-street facilities.
- Applicants car cannot be charged at home as it requires a cable to be stretched over the public footpath/no charge point on street.
- Number of other permissions for the provision of gates on Kenilworth Square/No examination of these is set out in the planners report.
- Proposal complies with each of the criteria under Section 16.10.18 'Parking in the Curtilage of Protected Structures and in Conservation Areas'.
- Suggest conditions that would be appropriate.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. 1 no. observation has been received from the Rathgar Residents Association. The issues raised are as follows:

- Clearly stated policy objective to protect street parking facilities/would result in the loss of on street parking.
- Heavy demand for on street parking in this area.
- Majority of the Protected Structures in this area have their front gardens intact.
- There was previously access from the rear for off-street parking prior to the development of the mews houses.
- Reference is made to previous refusal (PA Reg Ref 2343/09) for a similar development at 36 Kenilworth Square.

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 the proposed development/Need for the development
- Design/Impact on the Character of the Area
- Traffic Safety
- Appropriate Assessment

7.2. Principle of Development/Need for the development

7.2.1. Policy MT14 of the Dublin City Council Development Plan is clear on the need to minimise loss of on-street parking and sets out only a limited number of circumstances where the loss may be acceptable i.e. sustainable transport provision, access to new developments, or public realm improvements.

7.2.2. The reference to sustainable transport provision is not expanded upon within the policy wording, however, in the preamble to the policy within Section 8.5.6 it is stated that developers will be encouraged to supply a car, preferably electric, as part of a shared transport pool, in lieu of parking spaces. This refers to new build larger scale developments, in my view, rather than the development proposed here.

7.2.3. The application results in the loss of an on-street space, as a result of the need to provide vehicular access to an off-street car parking space to the front of the property. It is noted that the applicant's vehicle is a hybrid vehicle and the wider policy support for electric vehicles, and more sustainable forms of transport in general, is acknowledged. Notwithstanding this, Policy MT14, in my view, is designed to protect on-street spaces for the wider community as a whole, and the loss of an on-street space to accommodate vehicular access for a privately owned hybrid vehicle, and to facilitate access to a privately owned electric charging point, is not justified in this instance.

7.2.4. While I note that Kenilworth Square does not currently have an on-street charging point, the roll-out of same is a matter for the local authority, and the absence of such facilities does not override the need for communal on-street parking spaces.

7.2.5. In conclusion, the proposal to provide a vehicular entrance to facilitate one off-street parking space would be contrary to Policy MT14. As such the proposal is not considered to be acceptable in principle.

7.3. Design/Impact on the Character of the Area

7.3.1. I note the report of the planning authority's Conservation Officer who expressed concern regarding the cumulative impact of relatively small developments on the character of the wider area. It is also noted within the report that the proportion and detail of the existing gate enhances the character of the streetscape.

7.3.2. I share the view of the planning authority's Conservation Officer in this instance. The intact boundary treatment of the majority of properties around Kenilworth Square, all of which are Protected Structures, contributes greatly to the overall appearance and character of the residential conservation area, and to the setting of the Protected Structures. The cumulative loss of these boundary treatments would, over time, degrade and devalue the appearance and character of the area.

7.3.3. The appellant has stated that other properties on Kenilworth Square have been granted permission for similar developments, specifically citing No. 58 Kenilworth Square. The grant of permission at No. 58 Kenilworth Square (Ref 4828/05) appears to have been specifically to facilitate disabled access and conditions 2 and 3 of the permission require the garden and the boundary treatment to be reinstated once the property was either sold, or the disabled access no longer required.

7.3.4. The cover letter at application stage refers to two other similar developments granted on Kenilworth Square, at No. 2 (6479/07) and at No. 36 (2643/07). The permission at No. 2 refers to an extension of time on a permission, granted under the previous development plan. The permission at No. 36 was to facilitate disabled access. As such these applications are not comparable to that under consideration here.

7.3.5. In conclusion, the proposal would result in the unacceptable loss of historic fabric, and would result in an adverse impact on the setting of the Protected Structure, and of surrounding Protected Structures, and would have a detrimental impact on the character and appearance of the residential conservation area.

7.4. Traffic Safety

7.4.1. I note the nature of the road with relatively good sightlines in either direction. I do not consider that the proposal would constitute a road safety hazard or would constitute a hazard to pedestrians.

7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the proposed development within a serviced area and 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. Refuse permission.

9.0 **Reasons and Considerations**

1. The proposal would result in a loss of an on-street parking space and as such would be contrary to Policy MT14 of the Dublin City Development Plan 2016-2022. The proposal, therefore, would be contrary to the proper planning and sustainable development of the area.
2. The proposed interventions to the historic boundary treatment, and the resulting loss of historic fabric, would materially and adversely affect the character and setting of the Protected Structure. The proposal, therefore, would seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

Rónán O'Connor
Planning Inspector

7th March 2019