



An
Bord
Pleanála

Inspector's Report ABP303668-19

Development	Retention of 3.5-metre-wide sliding gate vehicular entrance with 1 metre setback in lieu of approved 2.6 metre inward opening vehicular gate.
Location	1 Grosvenor Place, Rathmines, Dublin 6.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	WEB 1589/18.
Applicants	Ronan and Karen Daly.
Type of Application	Retention of Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party -v- Refusal.
Appellants	Ronan and Karen Daly.
Observer	Philip O'Reilly.
Date of Site Inspection	3 rd April, 2019.
Inspector	Paul Caprani.

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1.0 Introduction

ABP303668-19 relates to a first party appeal against the decision of Dublin City Council to issue notification to refuse retention of planning permission for a side sliding vehicular gate 3.5 metres in width with a 1 metre setback from the footpath. The vehicular gate was constructed in lieu of a previously approved inward opening vehicular gate which was granted by An Bord Pleanála under PL29S 248188. Dublin City Council refused planning permission for a single reason stating that the proposed development is contrary to Section 16.10.18 of the development plan which relates to parking in the curtilage of protected structures and in conservation areas which requires a vehicular entrance to be no greater than 2.6 metres wide. An observation was also submitted supporting the decision of the Planning Authority. The subject site is located at Grosvenor Place, Rathmines, Dublin 6.

2.0 Site Location and Description

- 2.1. The subject site is located at No. 1 Grosvenor Place, Rathmines. No. 1 Grosvenor Place is located near the junction of Grosvenor Road, Grosvenor Place and Kenilworth Road between the Rathmines Road and Harold's Cross Road. The area is characterised by large three-storey Victorian dwellinghouses many of which in the wider area are protected structures. The subject site is not a protected structure. It is however located in a designated Residential Conservation Area.
- 2.2. Under PL29S.248188 planning permission was granted for alterations, modifications and the construction of a new vehicular entrance on the subject site in 2017. Condition No. 4 of the grant of planning permission required the design of the vehicular access to be a maximum of 2.6 metres in width and shall not have outward opening gates.
- 2.3. As the photographs attached to this report indicate, a sliding gate was constructed on site 3.5 metres in width. This gate comprises of a black metal gate above a black plinth which is similar but not identical in design to the original railings and gates along the front boundary of adjacent dwellinghouses. The gate for which retention of permission is sought, is recessed approximately 1 metre from the footpath and

provides vehicular entrance to the gravel driveway to the front of the three-storey red brick dwellinghouse.

3.0 Proposed Development

Planning permission is sought for the retention of the sliding vehicular gate.

4.0 Planning Authority's Decision

Dublin City Council refused planning permission for a single reason which is set out in full below.

The proposed sliding entrance vehicular gate, 3.5 metres in width and 1 metre setback for retention is located in an area zoned Z2 which seeks to protect and/or improve the amenities of residential conservation areas. Having regard to Section 16.10.18 Parking in the Curtilage of Protected Structures and in Conservation Areas, which requires vehicular entrance to be no greater than 2.6 metres wide, the proposed development for retention would be contrary to the standards set out in the Dublin City Development Plan 2016-2022.

4.1. Documentation Submitted with the Planning Application

- 4.1.1. The application was accompanied by planning application form, public notices, planning fee and associated drawings. A covering letter submitted with the application states that works were carried out on site to facilitate a 2.6 metre wide vehicular gate to comply with a planning condition. However, upon insertion of the supporting posts the resultant width was deemed to be too narrow posing questions of safety for both the user and passing pedestrians. A decision was therefore made to increase the width of the entrance gate. Cars are required to be entirely clear of the gate before turning which would need to cross the oncoming traffic lane in order to achieve the required turning circle arc thus the vehicle would need to cross both lanes to achieve a safe turning circle. The setback was proposed to allow an approaching car the space to sit on the entrance apron (footpath) thereby allowing other vehicles to pass and alleviating the potential traffic build up. Finally, it is stated that the gates have been cast to replicate those of the existing property so that it gives a consistent and sympathetic appearance along the streetscape.

4.2. Planning Authority's Assessment

- 4.2.1. A report from the Engineering Department Drainage Division stated that there was no objection subject to standard conditions.
- 4.2.2. The planner's report makes reference to Section 16.10.18 of the development plan in relation to Parking in the Curtilage of Protected Structures and Conservation Areas which specifically requires that vehicular entrances should be no greater than 2.6 metres wide. For this reason the planning report recommended that planning permission be refused.
- 4.2.3. Dublin City Council issued notification to refuse planning permission for the sole reason set out above, on the 16th January, 2019.

5.0 Planning History

- 5.1. Under WEB1521/16 Dublin City Council issued notification to grant planning permission for the demolition of annexes to the existing house at No. 1 Grosvenor Place and the construction of an extension, alterations to the fenestration and the construction of a vehicular entrance and all associated site works. The decision to grant planning permission was the subject of an appeal by the Rathgar Residents Association.
- 5.2. The Board upheld the decision of the Planning Authority under Reg. Ref. PL29S 248188 and incorporated the following condition as Condition No. 4.

The design of the proposed vehicular access should be amended as follows:

- (a) *The vehicular entrance shall be a maximum of 2.6 metres in width and shall not have outward opening gates.*

6.0 Grounds of Appeal

- 6.1. The decision of Dublin City Council to refuse retention of planning permission was appealed on behalf of the applicants by ODKM Architects. The grounds of appeal are outlined below:

The Victorian property has been repaired and restored using best conservation principles notwithstanding the fact that the said property is not listed in the Record of

Protected Structures. The grounds of appeal address concerns raised in the observation submitted to the Planning Authority and the contents is outlined below.

It is stated that the site notice was erected in accordance with the requirements of the Planning Regulations.

It is stated that the dropped kerb to the front of the vehicular entrance has been carried out to the highest standard.

The reasons for deviating from the original grant of planning permission was set out in the covering letter. It is stated that upon insertion of the supporting posts the resultant width was deemed to be narrow. Vehicles exiting the site needed to be entirely clear of the gate before turning. Therefore, by turning left, the vehicle would have to venture into the lane of oncoming traffic prior to travelling along the left-hand side of the road. Furthermore, in the approach to the driveway the vehicle would need to cross onto oncoming traffic in order to achieve the required turning circle arc to enter the gate perfectly perpendicular to the line of the railings. This would result in traffic inevitably building up at peak times and it is therefore considered prudent to amend the entrance.

It is argued that the gate which has been installed is very much in keeping with the image of the local area. Where possible the original railings were restored with new elements matching in colour and shape to complete the streetscape elevation. It is stated that there are numerous examples in the immediate vicinity of both inward opening and sliding gates for off-street car parking. It is stated that there are numerous examples of openings greater than 2.6 metres in the immediate area and therefore there is local precedent that supports the retention of the gates in question. Examples of vehicular entrances in excess of 3 metres are contained in Appendix A of the grounds of appeal. Finally, it is stated that the emphasis on the non-compliance with Condition No. 4 takes away from the fact that the applicant has secured the continued use of a period building which preserves the historic fabric using best conservation practice.

7.0 Appeal Responses

7.1. Dublin City Council have not submitted a response to the grounds of appeal.

8.0 Observations

- 8.1. An observation was submitted by Philip O'Reilly of No. 18 Grosvenor Place. It states the following:

An Bord Pleanála in its decision of June, 2017 confirmed in every detail the arrangement for the vehicular access as required by the local authority.

There are no houses in the area with either vehicular or pedestrian access gates which are sliding. All accesses have traditional inward opening gates. Electronic sliding gates of the type proposed are in violation of the planning consent and are totally out of character with the traditional setting of the area.

Other houses in the immediate area have installed electric inward opening gates maintaining the established traditional gates and traditional environment setting. The development plan lays down a requisite width of 2.6 metres for Z2 zoned residential conservation areas. As built, the development is totally at variance with the zoning objective and does not adhere to the objectives of the development plan.

It is noted that the adjoining dwelling at No. 15 Grosvenor Road is of significant architectural merit and many of the houses along Grosvenor Place should be on the record of protected structures.

It is argued that it is wholly inappropriate that the development would be carried out in non-compliance with the requirements of the local authority and if retention of the gates was permitted on appeal, it would set the most undesirable precedent for such inappropriate developments along Grosvenor Road and Grosvenor Place.

9.0 Development Plan Provision

- 9.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022. The subject site is not listed on the Record of Protected Structures. It is however located in an area governed by the land use zoning objective Z2 with the objective of *"to protect and/or improve the amenities of Residential Conservation Areas"*.
- 9.2. Section 16.10.18 of the development plan relates to parking in the curtilage of protected structures and conservation areas. It states that poorly designed off-street

parking in front gardens of protected structures and in conservation areas can have an adverse effect on the special interest and character of these sensitive buildings and areas. For this reason, proposals for off-street car parking in the front gardens of such buildings would not normally be acceptable. However, where site conditions exist that facilitate parking provision without significant loss of visual amenity and historic fabric, proposals for limited off-street car parking will be considered where the following criteria can be met.

- Every reasonable effort is made to protect the integrity of the protected structure and/or conservation area.
- There is sufficient depth available in the garden to accommodate a private parked car.
- Access to and egress from the proposed parking space will not give rise to a traffic hazard.
- The proposal accords with the design criteria set out in Chapter 16 of the plan.
- The remaining soft landscape area to the front of the structures should be generally in excess of half of the total area of the front garden space, exclusive of car parking area, footpaths and hard surfacing.
- Car parking shall be designed so that it is setback from the house and front boundary wall to avoid excessive impact on the protected structure.
- Car parking bays shall be no greater than 5 metres by 3 metres.
- The proposed vehicular entrance should where possible be combined with the existing pedestrian entrance so as to form an entrance no greater than 2.6 metres and the combined entrance should be no greater than half the total width of the garden at the road boundary. The gates shall not swing outwards so as to cause an obstruction to public paths.
- Where cast iron railings exist, which contribute to the special character of the structure every effort will be made to preserve and maintain the maximum amount of original form and construction through minimum intervention. Any original existing gates, piers and cast-iron railings which require alterations shall be integrated with all new parking.

9.3. Proposals for off-street parking in the front gardens of protected structures and within conservation areas will not be permitted in the following circumstances.

- Where satisfactory vehicular access to the rear garden exists, or can be easily provided without compromising the personal safety and where sufficient rear garden area is available to meet both the parking and open space requirements of the building.
- Where there is insufficient area to accommodate a parked car in the front garden or where the proposal relates to vehicles other than a private car (i.e. caravan/boat).
- Where proposals will result in the removal of the entire front boundary of the property.
- Where the development would involve the subdivision of the original historic communal front area (shared by two houses or more) into separate driveways and where this would detract seriously from the unique architectural relationship and composition of the buildings and street.
- Where off-street parking is proposed in terraces or streets that are characterised largely by pedestrian entrances with few vehicular access openings such proposals will be examined on their own merits and will be subject to the criteria set out above.
- Where terraces/streets are characterised by railings of unique significance, which are of a type not found largely throughout the city, the Planning Authority may seek to retain such railings. Similarly, proposals to provide more than one private car within the curtilage of an owner/occupier residential building will only be considered in exceptional circumstances where the integrity of the building or area is protected and retained.

10.0 Planning Assessment

10.1. The applicant was granted planning permission for the refurbishment and alterations of the existing dwelling under Reg. Ref. PL29S.248188 notwithstanding a third-party appeal. The conditions attached to the permission were clear and unambiguous. This included a condition requiring that the design of the proposed vehicular

entrance shall be maximum of 2.6 metres in width and shall not have outward opening gates. This condition is fully in accordance with the stated requirements set out under Section 16.10.18 of the development plan which relates to parking requirements in the curtilage of protected structures and in conservation areas. As already stated, while the dwelling in question is not a protected structure it is located in a conservation area. In such areas particular attention is paid to the aesthetics of any new development or alterations to existing buildings.

10.2. In my opinion there are two separate issues which the Board must adjudicate upon in deciding whether or not the proposed development is acceptable and in accordance with the proper planning and sustainable development of the area namely:

1. Whether or not it is appropriate to have electronic sliding gates at the vehicular entrance.
2. Whether or not the width of the vehicular entrance as constructed at 3.5 metres is acceptable at this location.

In relation to the first issue I note that there are no examples of sliding gates in the vicinity of the subject site. The only example cited in the grounds of appeal (see Appendix A) are the provision of a sliding gate at No. 28 a dwelling c.300 metres to the south of the subject site. It cannot be reasonably argued that the precedent cited and relied upon in the grounds of appeal is located in the vicinity of the subject site. The Board would also note that in the case of No. 28 Grosvenor Road, and the surrounding dwellings the front boundary of those dwellings do not comprise of cast iron railing but are in fact stone walls with brick pillars. The provision of sliding metal gates at No. 28 Grosvenor Road would in my opinion be more amenable in the context of the front boundary comprising of a solid wall than the provision of sliding metal gates where the front boundaries comprise of original wrought iron railings.

Perhaps more importantly there are no examples of large recessed sliding rail gates along Grosvenor Place in the vicinity of the subject site. All other precedents referred to in the grounds of appeal relate to electronic pivoted inward opening gates and not sliding gates.

With regard to the width of the gates, the proposal seeks the retention of gates which are 3.5 metres in width and recessed 1 metre from the carriageway. I note that No. 5

Grosvenor Place, two doors up from the subject site incorporates a much narrower gateway (see Photograph No. 6 attached to this report). I further note that many houses along this stretch of Grosvenor Place do not incorporate any vehicular access but rely on roadside parking and residential parking permits.

Among the arguments set forward in the grounds of appeal include the contention that the imposition of 2.6 metre wide gate restrict the turning movements of cars accessing and egressing the site so much so that vehicles are required to cross into lanes of oncoming traffic. In relation to this argument I would note the following:

- Grosvenor Place is a wide thoroughfare c.9 metres in width and over 7 metres in width even when on-street car parking is taken into consideration opposite the site. There is in my view ample room to manoeuvre, even a large vehicle, in and out of a narrower entrance without the need to cross into the contraflow traffic lane. Furthermore, I note that there is no on-street parking permitted on the roadside adjacent to the entrance which could further restrict vehicular movements while accessing and egressing the entrance into the site.
- Were the road width narrower, with street parking on both sides of Grosvenor Place, (which is not the case in the vicinity of the appeal site) issues may certainly arise with regard to manoeuvring cars in and out of a narrower vehicular entrance. However, having regard to the width of the road serving the site, such issues should not arise.
- Furthermore, Grosvenor Place is not a heavily trafficked road as it does not form a major distributor route within the city. It is therefore unlikely that any manoeuvring would give rise to increased hold-ups or traffic congestion other than momentary hold-ups while a vehicle accesses the entrance. I also note that the entrance in question serves a single residential unit and therefore trip generation to and from the site is likely to be infrequent.
- Finally, in relation to the width of the entrance I note that the width of cars are generally under 2 metres and it is only in the case of the largest cars that the width extends to beyond 2 metres. The recommended minimum dimensions for car parking spaces in public car parks as set out in the development plan in the case of a short-term parking space is 2.4 or 2.5 metres in width. It should be borne in mind that such car parking spaces, in for example public

car parks, also factor in the requirement for the opening of doors within such spaces.

Bearing this in mind I would consider that a vehicular entrance of 2.6 metres in width should be more than adequate to facilitate a car accessing and egressing the site in question.

11.0 Conclusions and Recommendation

Arising from my assessment above I consider that the proposed development clearly contravenes an existing planning condition attached to PL29S 248188 and a standard set out in the development plan with regard to the vehicular width permitted on the site in question having regard to the site's location within a Residential Conservation Area. Furthermore, I am not satisfied that a precedent exists in the immediate vicinity which permit sliding gates in residential areas nor do I consider that the development for which planning permission is sought would exacerbate or give rise to traffic safety issues or traffic congestion. I therefore recommend that the Board uphold the decision of the Planning Authority in this instance and refuse retention of planning permission for the said access.

12.0 EIA Screening Determination

The development for which retention of planning permission is sought is not listed as a class of development for which EIA is required.

13.0 Appropriate Assessment

Having regard to the modest nature and scale of the proposed development and nature of the receiving environment together with the proximity 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 a European site.

14.0 Decision

Refuse planning permission for the proposed development based on the reasons and considerations set out below.

15.0 Reasons and Considerations

The proposed sliding vehicular gate at 3.5 metres in width for which retention of planning permission is sought is located in an area governed by the zoning objective Z2 which seeks to protect and improve the amenities of residential conservation areas. It is considered that the development for which retention is being sought would materially contravene Condition 4(a) of Reg. Ref. PL29S.248188 which stipulates that the vehicular entrance shall be a maximum of 2.6 metres in width. Furthermore, the development for which retention of planning permission is sought would also be contrary to Section 16.10.18 of the Development Plan which requires, inter alia, that vehicular entrances in Residential Conservation Areas should, where possible be no greater than 2.6 metres. The development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector,

13th May, 2019.