



An  
Bord  
Pleanála

## Inspector's Report ABP-304543-19

### Development

Retention of a change of use of Citadella House from residential to temporary office use for a period of 2 years, and

Retention of modifications to a development permitted under permitted application 07/32173 comprising: (a) revised landscaping to the east of the unit, and (b) revised rear garden arrangement to include vehicular access and car parking area and all ancillary development works.

### Location

Citadella House, Bull's Lane,  
Blackrock Road, Knockrea, Cork

### Planning Authority

Cork City Council

### Planning Authority Reg. Ref.

19/38297

### Applicant(s)

Citadella Blackrock Ltd

### Type of Application

Retention permission

### Planning Authority Decision

Refusal

<b>Type of Appeal</b>	First Party -v- Decision
<b>Appellant(s)</b>	Citadella Blackrock Ltd
<b>Observer(s)</b>	Deirdre Keane & Anthony O'Brien Marie Staunton Sheila Kenny & Pierce Noonan
<b>Date of Site Inspection</b>	15 <sup>th</sup> August 2019
<b>Inspector</b>	Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located at the foot of Bull's Lane, a single lane cul-de-sac off the southern side of Blackrock Road, an east/west route within the south eastern quadrant of Cork City. This site is situated within a predominantly residential area, although there is a vacant four-storey office building off the head and to the west of this cul-de-sac and Aston Secondary School lies to the east. Elsewhere, on the western side of the cul-de-sac lie a row of dwelling houses, of different sizes and designs. The site is reached through an archway and a forecourt area and a further gated archway on the eastern side of this forecourt provides access to the grounds of a scheme of 4 modern, detached, two storey, dwelling houses that are sited to the south.
- 1.2. The site itself extends over an area of 0.0323 hectares. It accommodates a two-storey house, known as Citadella House, of elongated form under a double pitched roof and a walled and gated rear yard, which serves this house. This site also includes a curved hard surfaced area that lies beside the eastern gabled side elevation of the house and which is continuous with the grounds to the above cited scheme of dwelling houses. Vehicular access to the said rear yard is through these grounds.

## 2.0 Proposed Development

- 2.1. The proposal is for the retention of the change of use of the house (211.1 sqm) from residential use as a single dwelling to temporary use as an office for a 2-year period.
- 2.2. The proposal is also for the retention of modifications to the development permitted under application 07/32173 for the above cited scheme of 4 dwelling houses. These modifications comprise the following:
  - Revised landscaping to the east of the house, and
  - Revised layout to the rear garden to provide a gated car parking area.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was refused for the following reasons:

- In the light of Paragraph 15.10 and Objective 3.10 of the CDP, offices are generally not permitted in Zone Z04 and so the retention of office use would be a material contravention, which would depreciate the value of property in the vicinity.
- In the light of Objective 11.7(b), open space permitted under 07/32173, should be retained as such and so the failure to do so would be a material contravention, which would be seriously injurious to residential amenity.
- Due to the deficient access road, the proposal would generate traffic, which would lead to congestion and consequent hazard. To accede to this proposal would establish an undesirable precedent.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

See decision.

#### 3.2.2. Other Technical Reports

- HSA: Does not advise against permission.
- Drainage: No objection, subject to a condition.
- Roads Design: Objects, cf. third reason for refusal.
- Irish Water: No objection, standard notes requested.
- Conservation: Objects, "The use of the house as an office, entered from beneath the unrestored masonry arch, and in particular the vehicular entrance to the rear, unauthorised car park, via the private space of the four new houses is anomalous in this historic residential environment."

## 4.0 Planning History

- 06/31549: To demolish existing dwelling and ancillary buildings + To construct 6 no. dwellings and associated site works: Refused on the grounds of inadequate private open space, poor access, and adverse impact upon Citadella House, a historic building.
- 07/32173: To demolish existing outbuildings + To construct 4 no. dwellings and associated site works: Permitted, subject to 14 conditions, including the following one:

*2. Prior to the commencement of the development, the applicant shall submit the following details for the written agreement of the Planning Authority:*

*(a) A detailed specification of works for the refurbishment of the existing single dwelling in the applicant's ownership (immediately adjacent the application site to the north west). The detail shall be prepared by a specialist in conservation, whose selection shall be agreed by the Planning Authority.*

*(b) Exact details of the de-lineation of parking area to serve the existing dwelling in the applicant's ownership (immediately adjacent the application site to the north west), and lay-by to facilitate access to the proposed development, within the curtilage of that dwelling.*

*(c) A detailed specification of works for the refurbishment of the iron gates at the access to the site, prepared and carried out by a specialist ironworks contractor, whose selection shall be agreed by the Planning Authority.*

*(d) Timeframe/phasing for implementation of the above works, which shall be carried out prior to occupation of the proposed dwellings.*

*Reason: To protect the character of structure of architectural and historical interest which is recommended for inclusion in the Record of Protected Structures.*

- 17/37296: Retention of change of use of Citadella House from residential to office use + Retention of a side vehicular access to the east of the dwelling (with electric gate and constituent wall) + Retention of 2 no. car parking spaces to the east permitted as open space under 07/32173 and 3 no. car parking spaces to the north west: Refused at appeal PL28.249009, on the grounds of land use, traffic congestion/hazard, and loss of open space.

- E 7727: A warning letter was issued concerning the matters that are the subject of the current application. A further matter was raised, too, i.e. the reinstatement of wrought iron gates in the archway at the end of Bull's Lane in accordance with condition no. 6 attached to permitted application 07/32173.

## **5.0 Policy and Context**

### **5.1. Development Plan**

Under Cork City Development Plan 2015 – 2021 (CDP), the site is shown as being zoned Z04, wherein the objective is “To protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies outlined in Chapter 3.” The accompanying Paragraph 15.10 states that “The employment policies in Chapter 3 designate particular locations for offices, office-based industry, major retailing development and these uses are not generally permitted in this zone.

Objective 11.7(b) states that “There will be a presumption against development on all open space in residential estates in the city, including any green area/public amenity area that formed part of an executed planning permission for development and was identified for the purposes of recreation/amenity open space, and also including land which has been habitually used as public open space. Such lands shall be protected for recreation, open space and amenity purposes.”

### **5.2. Natural Heritage Designations**

- Cork Harbour SPA (site code 004030)
- Great Island Channel SAC (site code 001058)

### **5.3. EIA Screening**

As the proposal is essentially for the retention of a change of use, it is not subject to Part 1 or Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2019.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Attention is drawn to Paragraph 15.10 of the CDP, which states that office uses are *generally* not permitted in Z04 and so exceptions can be made. The following considerations would justify an exception being made in the present case:

- Permission is sought for 2 years only, and
- As Citadella House was a manger's house for a private asylum, the established use includes residential and administrative (office) uses.

Attention is also drawn to Objective 3.10 of the CDP, which refers to "general office units over 1000 sqm", whereas the current proposal is for a 211.1 sqm office.

Instances of mixed residential and office use are cited. Thus, for example, the former Springville House on Bull's Lane was used for offices. Permission was granted in 2010 for the demolition and reconstruction of its reception area and modifications to all elevations. Notwithstanding its non-conforming use, permission was granted as the floorspace element related only to the reception area.

The applicant lists a further 7 no. examples of small-scale offices on Z04 sites elsewhere in Cork City.

Given the temporary nature of the proposed offices, the residential amenities of the area would not be adversely affected.

- The Planning Authority's second reason for refusal cites Objective 11.7(b) of the CDP. Attention is drawn to the area to the east of Citadella House, where there is a mixture of soft and hard landscaping. No development is proposed for this area and so no material contravention would ensue.

Designated car parking for Citadella House is only available to the rear and access to this parking would be across the area of hard landscaping, an arrangement that would allow this landscaping to remain part of the open space.



- Bull's Lane affords access to 4 no. dwellings and Citadella House. The applicant who uses this House as offices and is a developer has only a small staff. The need for car parking is curtailed by the location, which facilitates walking to work and the use of public transport. Likewise, visitor numbers are small, as meetings tend to be held either in consultant's offices or on site.

The third reason for refusal is at variance with the Design Manual for Urban Roads and Streets (DMURS), which recognises that narrow roads have a calming effect on traffic speeds and which would be calmed further by the presence of the archway at the end of Bull's Lane. Peak times for residents and staff would not coincide.

If Citadella House was to be used for a conforming use, such as local services, traffic flows would be likely to be higher.

The applicant's consulting engineer advises that Bull's Lane has an accident free history, significantly, since 2016, when Citadella House began to be used for offices.

## 6.2. **Planning Authority Response**

No further comments to make.

## 6.3. **Observations**

The observers, who reside at Nos. 2, 3 & 4 Citadella, raise the following matters

- Under permitted application 07/32173, Citadella House was excluded from the subject site and the land to the east and south of this House was to be laid out for landscaping and a private garden. Likewise, no access to the site by users of the House was authorised. Residents of the new dwellings at Citadella purchased their properties on the above understanding and they do not now, as the relevant Management Company, consent to the right of way that the applicant's access arrangements are seeking to establish.
- The aforementioned access arrangements have encroached on a recreational area, which formed part of the development permitted under 07/32173, with a consequent loss of residential amenity. Its use is undermining the security and

privacy of the gated residential development at Citadella. Furthermore, the use of a different surface material distinguishes the area in an unwarranted way from the remainder of the grounds used by residents.

- Bull's Lane is of single car width and so there is no opportunity for vehicles to pass one another. It is not accompanied by a footpath and it passes under two historic archways. The office use of Citadella House has led to a self-evident increase in the usage of this Lane and so road safety is being compromised. In this respect, the description of the office as a 3-person one only is not reflected in the level of traffic generated.
- Attention is drawn to the Planning Authority's reasons for refusal.
- Exception is taken to the precedents for offices in residential areas cited by the applicant. These are not considered to be comparable. Furthermore, the asylum cited operated between c. 1791 and 1851 and so it is only of historic interest.
- The applicant is not entitled to "cherry pick" the development permitted under 07/32173 and its protestation over the inclusion of the word "material" in the first and second reasons for refusal is not accepted.
- The temporary nature of the proposal is questioned.
- The resubmission of essentially the same proposal as that which was refused under 17/37296 is considered to be an abuse of the planning system.

#### 6.4. Further Responses

None

### 7.0 Assessment

7.1. I have reviewed the proposal in the light of the CDP, relevant planning history, the submissions of the parties and the observers, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use,

- (ii) Traffic, access, and parking,
- (iii) Amenity,
- (iv) Water, and
- (v) Screening for AA.

**(i) Land use**

- 7.2. Under the CDP, the site is shown as being zoned Z04, wherein the objective is “To protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies outlined in Chapter 3.” The accompanying Paragraph 15.10 states that “The employment policies in Chapter 3 designate particular locations for offices, office-based industry, major retailing development and these uses are not generally permitted in this zone.”
- 7.3. The proposal is for the retention of a change of use of Citadella House from residential use as a single dwelling to office use for a temporary period of 2 years. The applicant’s cover letter states that the 2 years in view is a further 2 years. In this respect, I note that application 17/37296 was for the same change of use on a permanent basis. This application was lodged on 24<sup>th</sup> February 2017 and it cited an enforcement file (EN 7727), which was initiated in August 2016. Thus, at the time of writing the office use has been on-going for at least 3 years and the applicant is seeking a further 2 years. I note, too, that this previous application was the subject of appeal PL28.249009, which, on 18<sup>th</sup> December 2018, echoed the Planning Authority’s land use reason for refusing a permanent retention of the office use.
- 7.4. The applicant now proposes that the retention be for a further 2-year period only and so the question arises as to whether there has been any material change in planning circumstances since the previous decision and whether the switch from a permanent basis to a temporary one warrants a change in decision.
- 7.5. In relation to the first of these questions, the operational CDP is the same one as pertained under the previous application for retention and there have been no variations to this Plan in the intervening period of time, i.e. since 18<sup>th</sup> December 2018. Likewise, I am not aware of any changes to the site or its vicinity that would represent a material change in planning circumstances.

- 7.6. In relation to the second of these questions, the applicant refers to the use of Citadella House as a manager's house for a private asylum and it contends that this use, insofar as it combined residential and administrative office uses, remains relevant. The observers have drawn attention to the historical nature of such usage. In this respect, I note that condition 2(a) attached to permitted application 07/32173 referred to this House as a single dwelling and so its contemporary residential use has hitherto been accepted.
- 7.7. The applicant also refers to the relative smallness of the offices (211.1 sqm), the incidence of offices within Zone Z04 locally and elsewhere in the City, and the absence of any adverse impact upon residential amenity.
- 7.8. By way of response the size of offices is not cited as a factor under the commentary to Zone Z04 and the applicant has neither demonstrated that the incidences cited are comparable to the subject site nor has it explained why the duration of usage would have any bearing on the impact upon residential amenity.
- 7.9. Under Section 7.5 of the Planning Management Guidelines, the following pertinent advice on residential amenity is given: "the reason for a temporary permission can never be that a time limit is necessary because of the adverse effect of the development on the amenities of the area. If the amenities will certainly be affected by the development they can only be safeguarded by ensuring that it does not take place."
- 7.10. I conclude that the proposed retention of offices in Citadella House for a further 2-year period would contravene Zone Z04.

**(ii) Traffic, access, and parking**

- 7.11. The submitted floor plans of Citadella House show this property under residential use and office use. In relation to the former, 5 bedspaces are shown and, in relation to the latter, 3 dedicated offices, 1 boardroom, 1 office meeting room, and a reception are shown. Thus, a 5-person dwelling is depicted and 4-person offices with accommodation for larger groups to meet in the boardroom and office meeting room, i.e. 8-persons in each case.
- 7.12. In the light of the foregoing paragraph, traffic generated by the office use would be likely to be greater than traffic generated by the residential use.

- 7.13. The site is accessed by means of Bull's Lane, a cul-de-sac of single lane width. This Lane is of straight alignment and it has a length of 140m. Either side of the Lane is marked out with double yellow lines. There are no formal passing places, only the recessed entranceways to properties off the western side.
- 7.14. Given the characteristics of Bull's Lane described in the foregoing paragraph and given, too, the higher number of traffic movements associated with the use of Citadella House as offices, the Planning Authority's third reason for refusal refers to congestion, associated hazard, and undesirable precedent. The observers testify to the higher number of traffic movements and support the Planning Authority's critique.
- 7.15. The applicant responds by drawing attention to the opportunities that the central location of the site affords for staff to walk/cycle/use public transport and to the advice set out in DMURS, which acknowledges that narrow roads have a calming effect upon vehicular speeds. It also draws attention to the accident free history of Bull's Lane since 2016.
- 7.16. I note that Bull's Lane is not served by a footpath and so pedestrians must share the carriageway with vehicles. I note, too, that the calming invitation prompted by the narrowness of this Lane is likely to be, in practise, counterbalanced by its straight alignment. I, therefore, consider that the Lane is not one that is suited to accommodate an increase in traffic movements.
- 7.17. Under condition 2(b) attached to permitted application 07/32173, parking for Citadella House is laid out in the forecourt, which adjoins the front (northern) elevation of this House. During my site visit, I observed that 3 spaces have been laid out for this purpose adjacent to the archway at the foot of Bull's Lane. While these spaces were vacant at the time of my visit (a late Thursday afternoon in August), I observed that informal parking was occurring to the west of the House on a vacant piece of land, i.e. 3 cars were parked there. I also observed that 1 car was parked in the rear yard to this House.
- 7.18. Under the aforementioned condition, 3 spaces were envisaged as serving the residential use of Citadella House. Such provision for a 5-bedspace dwelling would have been likely to have sufficed. Under Map 11 of the CDP, the site is shown as lying within Zone 3 for car parking purposes and so the relevant standard of provision for new build offices would be 1 space per 50 sqm of floorspace. If this

standard is applied to Citadella House, then 4/5 car parking spaces would be an appropriate level of provision. Thus, *prima facie* the 3 spaces would be insufficient.

7.19. I conclude that the office use of Citadella House is likely to generate more traffic than the residential use of this House. I conclude, too, that Bull's Lane is inherently unsuited to accommodate more traffic and that the authorised car parking spaces for the House, while adequate for its residential use, falls short for its office use.

**(iii) Amenity**

7.20. The applicant proposes to retain the hard landscaping that lies to the east of Citadella House and the car parking area and vehicular access that has been laid out to the rear of this House.

7.21. Under permitted application 07/32173, the aforementioned area that is hard landscaped was to be laid out as a green space with trees lining its edge with the on-site access road and the area to the rear was to be retained as an enclosed private garden.

7.22. The Planning Authority's second reason for refusal critiques the substitution of hard landscaping for soft landscaping in the light of Objective 11.7(b) of the CDP. This Objective seeks the retention of permitted green areas within constructed housing estates. The aforementioned substitution has been prompted by the need to provide a vehicular access to the "private garden", which has itself been reconfigured as a parking area.

7.23. The observers state that the aforementioned changes have eroded the amenity value of their housing scheme by a reduction in the green areas contained therein and by the introduction of non-residential traffic into the scheme on a regular basis.

7.24. The applicant has responded by stating that the said changes have retained an area of open space to the east of Citadella House, which contributes to the wider scheme of housing.

7.25. During my site visit, I observed the hard-landscaped area. While this area is open, its contribution to the amenities of the housing scheme are of a lower order than that which would have arisen under the permitted soft landscaping, which would have included the planting of 7 trees. A diminution in the amenities that could have been anticipated by local residents has thus occurred. Likewise, the introduction of traffic

movements that are unconnected with the 4 dwelling houses, further diminishes these amenities.

- 7.26. I conclude that the proposal is incompatible with securing the level of residential amenity that was envisaged under the permitted application for the dwelling houses to the rear of the site.

#### **(iv) Water**

- 7.27. Citadella House is served by the public water mains and the public foul and surface water sewerage system. Irish Water and the City Council's Drainage Section raise no objection to the change of use of this House from residential use to office use.
- 7.28. The OPW's flood maps show the site as being free from any identified flood risks.

#### **(v) Screening for AA**

- 7.29. As the proposal is for essentially for the retention of a change of use only, no Appropriate Assessment issues arise.

### **8.0 Recommendation**

- 8.1. That permission be refused.

### **9.0 Reasons and Considerations**

1. Having regard to the Z04 zoning of the site in the Cork City Development Plan 2015 – 2021 and the commentary on this zoning set out in Paragraph 15.10, the Board considers that the proposed retention of an office use in Citadella House for a temporary period would contravene this Zone wherein office use is a non-conforming use and the Zoning Objective is to protect and provide for conforming uses, which in this House and in the surrounding area are predominantly residential uses. Accordingly, to accede to the proposed retention of an office use would be contrary to the proper planning and sustainable development of the area.
2. The proposed retention of an office use in Citadella House for a temporary period would be likely to generate more traffic movements on Bull's Lane than the established use of this House as a single dwelling. Due to its single lane

width and straight alignment and due, too, to the absence of passing places and a public footpath, this Lane is inherently unsuited to accommodating additional traffic movements. Furthermore, the number of car parking spaces in the forecourt to Citadella House is likely to be inadequate to serve the office use of this House. Accordingly, the proposed retention of an office use would lead to traffic congestion and associated hazard, which would jeopardise road safety. The proposal would thus be contrary to the proper planning and sustainable development of the area.

3. The proposed retention of an area of hard landscaping to the east of Citadella House and the associated proposed retention of a car parking space and vehicular access to the south of this House would lead to a permanent diminution in the amenity afforded by this area, which under permitted application 07/32173 was to have been the subject of soft landscaping, including the planting of trees. As the said area is part of a continuous communal area that accompanies the dwelling houses further to the south, the resulting diminution would be seriously injurious to the residential amenities of the area and, as such, contrary to the proper planning and sustainable development of the area.

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Hugh D. Morrison  
Planning Inspector

4<sup>th</sup> September 2019