



An
Bord
Pleanála

Inspector's Report

ABP-305527-19

Development	Retention and completion of a permanent open car port to provide parking and storage
Location	117A, Strand Road, Sandymount, Dublin 4 D04 F977
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	WEB1419/19
Applicant(s)	Emma Harney
Type of Application	Retention and Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Ceanna and Pius Walsh
Observer(s)	None
Date of Site Inspection	14 th January 2020
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1. The site is located off the western side of Strand Road, Sandymount, a short distance north west of the Martello Tower and the junction with St John's Road. The site is towards the end of a narrow private laneway currently providing access to the appeal site and an adjoining mews dwellings to the immediate south of the site. On the opposite side of Strand Road is the seafront linear park and promenade.
- 1.1.1. The site is to the rear of no. 117, Strand Road and is occupied by no. 117A Strand Road, a mews property located in the former rear garden of 117 Strand Road, Dublin 4. The site is accessed via narrow laneway from Strand Road. The West Wood Fitness Club and associated tennis courts, car parking etc. is located to the west of the site. Directly adjacent to the site, to the south, is a single storey house at 119A which is built onto the lane.
- 1.1.2. The subject site has a stated area of 276sq.m and contains a gable fronted, two storey, rectangular shaped house. The garden is located on the eastern side of the site and a paved parking area is located on the western side.

2.0 Proposed Development

- 2.1. The development comprises the retention and completion of a permanent open car port to provide parking and storage to the rear.
- 2.2. The maximum ridge height of the car port is 3.07m with a floor area of 27sqm.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission subject to 11 conditions. The following condition is of note:

Condition No. 2.

The carport shall provide one parking space only. The remainder of the carport shall be used for storage.

Reason: In the interest of orderly development.

Condition No. 3.

The carport shall be finished in render and all external finishes shall harmonise in colour and texture with the existing house.

Reason: In the interests of visual amenity

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The report of the Planning Officer reflects the decision of the planning authority. The Planning Officer notes the zoning objectives for the area and that the development is acceptable in terms of traffic safety, visual impact and residential amenity.

3.2.2. **Other Technical Reports**

Drainage Department- Report dated 8th August 2019 – No objection

The Roads & Traffic Planning Division - Report of 29th August 2019 – No objection subject to conditions.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

Two no. One submission was made in relation to the development. A brief summary of the issues raised in the submission to the Planning Authority are set out below.

- Concerns raised regarding access, unauthorised development and inaccurate information submitted with the application.
- The capacity of the lane to accommodate additional traffic.
- Insufficient interest / rights to provide for vehicular access over the lane.
- The carport is oversized and could park two cars.

4.0 **Planning History**

Site

DCC E0116/19- Warning letter issued on 15th February 2019 in relation to unauthorised development of carport.

DCC Reg. Ref. 5919/06 – Permission GRANTED for retention of decorative first floor balcony 1.1-meter-deep overlooking Westwood Leisure Centre to the south elevation of residence at the rear.

Surrounding

DCC Plan Reg. WEB 1359/19 - Permission sought for the demolition of existing single storey dwelling and the provision of a new two storey, two-bedroom, courtyard style mews dwelling with car parking and balcony to front as previously granted permission Reg. Ref. 1690/07 with minor changes to elevations & floor plans and all associated site development works. Clarification of further information sought in relation to proposed rear access arrangements.

ABP 302839-19 / DCC2034/18 - Permission granted in 2018 for split level dwelling to the rear of 121, Strand Road, Sandymount, Dublin 4. The provision of vehicular access of the lane was omitted.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is located in an area zoned objective 'Z2' in the Dublin City Development Plan 2016-2022 which seeks 'to protect and/or improve the amenity of residential conservation areas'.
- 5.1.2. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

The policies of the plan in relation to Conservation Areas are set out in Section 11.1.5.4 of the Plan. Relevant policies include the following;

- CHC1 – Preservation of the built heritage of the city.
- CHC4 – Protection of special interest and character of Conservation Areas.
- CHC8 – Facilitate off-street car parking in while protecting the character of protected structures and Conservation Areas.

Table 16.1 of the Dublin City Development Plan 2016-2022 sets out the maximum parking standard for houses as 1 space per dwelling in Parking Area 2.

Section 16.2.2.3: Alterations and extensions (general)

- Extensions will be sympathetic to the existing building and adjoining occupiers,
- Alterations and extensions to roof will respect the scale, elevational proportion and architectural form of the building.

Section 16.10.12: Extensions and Alterations to Dwellings

Relates to alterations and extensions to dwellings and states that development will only be granted where it will not have an adverse impact on the scale and character of the area and will not adversely affect amenities enjoyed by occupants of adjacent buildings.

Appendix 17 of the Plan sets out design guidance with regard to residential extensions;

- 17.3: Residential amenity: extensions should not unacceptably affect the amenity of the neighbouring properties,
- 17.4 Privacy: Extensions should not result in any significant loss of privacy to the residents of adjoining properties.
- 17.6 Daylight and Sunlight: care should be given to the extensions and the impact on the adjoining properties,
- 17.11 Roof extensions: the design of the roof shall reflect the character of the area and any dormer should be visually subordinate to the roof slop, enabling a large proportion of the original to remain visible

5.2. **Natural Heritage Designations**

There are two designed sites within 83m of the site.

- South Dublin Bay SAC (site code 00210) is located 83m east of the site.
- South Dublin Bay and River Tolka Estuary SPA (site code 004024) is located 83m east of the site.

5.3. **EIA Screening**

The proposed development is not of a class for the purpose of EIAR. The nature and scale of the development would not result in a real likelihood of significant effects on

the environment. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- It is set out that the applicant has over a series of planning applications attempted to validate and secure adverse possession of a portion of the laneway along with the extinguishment of the right of way of the adjoining property holders.
- It is set out that the wider portion of the laneway was originally for the purpose of vehicular turning.
- It is argued that the development inhibits the ability of the owners of 119a and 121 Strand Road to exercise their right of way. Resulting in the devaluation of their properties.
- Noting that the concerns raised are also a civil matter, it is argued that the site plan submitted with the planning application is incorrect and therefore invalid under section 23 of the planning and development regulations.
- It is set out that the applicant should be requested to demonstrate the validity of the claim over the laneway.

6.2. Applicant Response

- It is set out that the allegations made by the appellants surrounding title and ownership is a civil matter.
- Extracts from the planning officers report are referenced. It is stated that it is the applicant's intention to complete the development as per the recommendation of Dublin City Council.

6.3. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

7.0 Assessment

7.1. Introduction

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Right of Way
- Compliance with Article 23 of the Planning and Development Regulations 2001 (as amended)
- Other Matters

7.1.1. The proposed development provides for the retention and completion of a 27sqm open carport to the front west of the site. The intended use will accommodate a car parking space for one car and provide ancillary storage. The site is located on lands zoned Z2 in the Dublin City Development Plan 2016-2022 which seeks 'to protect and/or improve the amenity of residential conservation'. The provision of a car port/store ancillary to a private dwellings is acceptable within the zoning objectives for the site.

7.2. Right of Way

7.2.1. The third-party appellants have raised concerns regarding the impact of the development on their right of way over the rear lane. The appellants state that the applicant has over a series of planning applications attempted to validate and secure adverse possession of a portion of the laneway along with the extinguishment of the right of way of the adjoining property holders and as a result the development inhibits the ability of the owners of 119a and 121 Strand Road to exercise their right of way resulting in the devaluation of their properties.

7.2.2. Further to the above, I note that the site is currently gated, and the development is sited within the established boundaries of no. 117a. A review of the planning history on site would indicate that this is the case for some time.

7.2.3. I note that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development. Should planning permission be granted

and should the appellants or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, and then Section 34 (13) of the Planning and Development Act 2000 is relevant.

7.3. Compliance with Article 23 of the Planning and Development Regulations 2001 (as amended)

7.3.1. The third-party submission sets out that that site layout plan is incorrect and not in compliance with Article 23 (1)(a) of the Planning and Development Regulations 2001 (as amended) in so far as the site as outlined in red is not reflective of the applicant's land ownership.

7.3.2. I would draw the Boards attention to Article 23 (1) (a) of the Planning Regulations which sets out that requirements for particulars to accompany a planning application under article 22 of the Regulations. Article 23 (1) (a) requires that site or layout plans shall be *drawn to a scale (which shall be indicated thereon) of not less than 1:500 or such other scale as may be agreed with the planning authority prior to the submission of the application, the site boundary shall be clearly delineated in red, and buildings, roads, boundaries, septic tanks and percolation areas, bored wells, significant tree stands and other features on, adjoining or in the vicinity of the land or structure to which the application relates shall be shown.* I have reviewed the site layout plan submitted with the planning application and I am satisfied that the plan is in accordance with Article 23 (1) (a) of the Planning Regulations.

7.3.3. Article 22 (2)(b) (iii) of the Planning and Development Regulations 2001 (as amended) sets out that the site location map accompanying a planning application shall include any wayleaves in yellow. The 1:000 site location map submitted with the planning application has identified that right of way /wayleave over the laneway.

7.3.4. I am satisfied that the drawings and documentation submitted with the planning application are in accordance with the requirements of the Planning and Development Regulations 2001 (as amended).

7.4. Other Matters

7.4.1. The planning report notes that the subject site has an existing vehicle entrance and vehicle manoeuvring can be accommodated within the site. The Council's

Transportation Planning Division have raised no objection to the proposed carport and access arrangements. I am therefore satisfied that the car port will not constitute the intensification of traffic on the lane or represent a traffic hazard.

- 7.4.2. Overlooking, overshadowing or adverse impacts on adjacent residential amenity are not anticipated having regard to the single storey nature of the proposal. I note the planning authority imposed a condition requiring all sides be rendered finished. The applicant has indicated her intention to comply with this condition. Should the Board be minded to grant planning permission, I recommend this condition be repeated in this instance.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any 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.

8.0 **Recommendation**

I recommend that planning permission be **GRANTED** for the proposed development having regard to the reasons and considerations and subject to conditions as set out below.

9.0 **Reasons and Considerations**

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity, the existing development on site and the policies of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would not detract from the character of the area. 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 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. The structure shall be used from domestic purpose only incidental to the enjoyment of the dwelling house; under no circumstances shall the structure be used as habitable accommodation.

Reason: In the interests of residential amenity

3. The carport shall be finished in render and all external finishes shall harmonise in colour and texture with the existing house.

Reason: In the interests of visual amenity

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the extended dwelling.

5. 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: To protect the residential amenities of property in the vicinity of the site.

Irené McCormack
Planning Inspector

16th January 2020

