



Development

PROTECTED STRUCTURE:

Provision of 3 vehicular off-street entrance points to serve units 4, 6, and 8, and grant permission for the boundary treatment of no 10.

Location

No. 4, 6, 8, 10 Elgin Road, and 4, 6, 8 Pembroke Lane, Ballsbridge, Dublin 4.

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

3514/19

Applicant(s)

Maurice Regan.

Type of Application

Permission

Planning Authority Decision

Split Decision

Type of Appeal

First Party

Appellant(s)

Maurice Regan

Observer(s)

1. Philip O'Reilly
2. James O'Reilly

Date of Site Inspection

14th January 2020

Inspector

Irené McCormack

1.0 Site Location and Description

- 1.1.1. The site is located on the northern side of Elgin Road, close to the junction with Raglan Road. It comprises No's 4, 6, 8 & 10 Elgin Road which form part of a terrace of 19th century houses, of substantial size. The houses are three storeys over lower ground / garden level, with fine granite steps rising to the front door. Their front façades consist of brick to the upper levels and rustic stone to the lower levels. The original railings and granite plinth walls remain in place, along the boundary to Elgin Road. No's 4,6 and 8 have pedestrian access only while no. 10 is currently served by an existing vehicular and pedestrian access. All properties have substantial front gardens.
- 1.1.2. The subject site includes 4 no. protected structures, RPS No. 2498 (4 Elgin Road), RPS No. 2500 (6 Elgin Road), RPS No. 2501 (8 Elgin Road) and RPS No.2503 (10 Elgin Road).
- 1.1.3. No's 4, 6 & 8 extend to Pembroke Lane, with original mews buildings in place to the rear of No's 4 & 6. The site to the rear has been subdivided and does not form part of the subject site.

2.0 Proposed Development

- 2.1.1. The development will comprise of amendments to previously permitted development Reg. Ref. 3973/18 to include:
- Provision of 3 no. new vehicular off-street entrance points to serve units 4, 6 and 8 no. Elgin Road respectively.
 - Replacement of boundary treatment to No. 10 Elgin Road with original salvaged fabric from 4, 6 and 8.
 - Refurbishment and repair of existing boundary treatment.
 - Revised landscaping to front gardens.
 - Provision of 3 no. off street car parking space to serve 4, 6 and 8. - All other ancillary site development works necessary to facilitate the development.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a **split decision**.

- Permission was **granted** for the replacement of boundary treatment to No. 10. single subject to two standard conditions.
- Permission **refused** for the provision of 3 no. new vehicular off-street entrance points to serve units 4, 6 and 8. for the following reason:

The proposed works to provide 3 no. vehicular entrances would seriously injure the architectural character of both the historic streetscape and the setting of the Protected Structures and would give rise to the loss of original historic fabric and character. Therefore, the proposed works contravene DCC Development Plan 2016-2022 Section 16.10.18 and Policy CHC2 and 13.4.3 of the Architectural Guidelines 2011 and would not be in accordance with the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer reflects the decision of the Planning Authority and noted the following:

- The restoration and refurbishment of the 4 protected structures will deliver sufficient planning gain, and is supported by the Local Authority, the previous concerns regarding the impact of the subject proposal on the character and setting of the protected structures as raised in planning application DCC Reg. Ref. 3973/18 and the wider residential conservation area remain.
- The conservation report accompanying the application notes that all 4 houses are of uniform design with slight internal variations. It is also noted that they are among the earliest houses on Elgin Road. Therefore, alterations to the setting of the structures, and indeed the set piece of all 4 buildings, must be carefully considered. It is to the benefit of the properties that the boundaries of

No's 4, 6 and 8 remain intact, albeit in need of repair add to the distinctiveness of the properties.

- It is noted that the boundary to No. 10 was previously altered and a vehicular access is in place and the works were considered acceptable in this context.
- The report concluded that that to significantly alter the remaining three boundaries to No's 4, 6 and 8 would seriously injure the architectural character of both the historic streetscape and the setting of the Protected Structure and would give rise to the loss of original historic fabric and character.

3.2.2. Other Technical Reports

Conservation Officer – Report dated 5th September 2019 recommended that planning permission be refused for the development. This recommendation is reflected in the recommendation of the planning officer.

Transportation Planning Division – Report dated 27th August 2019 recommended that Additional Information be requested with regard to the relocation of the lamp standard and telegraph pole directly outside the subject site.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

3.4.1. The Area Planner in their report refers to receipt of three submissions in relation to the development. A brief summary of the issues raised in the submissions to the Planning Authority are set out below:

- The pattern and prospect of the layout of the protected structures on this side of Elgin Road would be lost and thereby damaged.
- The proposal is contrary to the development plan which mandates that the front gardens in residential conservation areas are to be used as front gardens and not for off street parking.
- It would set an unwelcome precedent for similar development.

- The off-street parking would adversely change the setting of the protected structures.

4.0 Planning History

DCC Reg. Ref. 3973/18 – Planning permission granted for the conversion of No. 4, 6, 8 and 10 from multiple unit dwellings to 4 no. single occupancy dwellings and associated works and for works to the mews buildings to the rear of No. 4, 6 and 8 to provide for 3 no. mews dwellings with integrated garages.

Condition No. 3 states the following;

The development shall be revised as follows;

- The additional vehicular entrances to No's 4, 6 & 8, and the vehicular turning circles to the front of all four houses shall be permanently omitted from the scheme and a schedule of works carried out for repair of the existing boundary treatment.
- A revised landscaping scheme for the front gardens of No's 4, 6, 8 and 10 shall be submitted to the Planning Authority for agreement in writing. Note: The landscaping plan should show an element of soft landscaping to the front of the houses and should also consider how the existing historic trees to the front of No's 6 & 8 and the trees to the rear of No's 4-8 can be retained.

Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings.

Reason: In order to protect the fabric and the special character of the boundaries along Elgin Road in order to protect the setting and curtilage of the Protected Structures and adjoining Protected Structures.

5.0 Policy Context

5.1. Development Plan

5.2. Dublin City Council Development Plan 2016-2022.

- 5.2.1. The zoning objective relating to the site is land use zoning objective Z2 “to protect and/or improve the amenities of residential conservation areas”.

Residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.

The buildings in question are Protected Structures.

- 5.2.2. In terms of Conservation Areas, Dublin City Council seek to ensure the development proposals within all Architectural Conservation Areas and conservation areas complement the character of the area and comply with development standards.

Conservation Areas

Policy CHC4: To protect the special interest and character of all Dublin’s Conservation Areas (11.1.5.4). Development within or affecting all conservation areas will contribute positively to the character and distinctiveness; and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

- 5.2.3. Protected Structures

Record of Protected Structures (Volume 3 of the 2016-2022 Dublin City Development Plan): RPS Ref - 4 no. protected structures, RPS No. 2498 (4 Elgin Road), RPS No. 2500 (6 Elgin Road), RPS No. 2501 (8 Elgin Road) and RPS No.2503 (10 Elgin Road)

Policy CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

Policy CHC2: It is the policy of Dublin City Council to ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

- a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest
- b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances
- c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials
- d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure
- e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works
- f) Have regard to ecological considerations for example, protection of species such as bats.”

Policy CHC8: To facilitate off-street parking for residential owners/occupiers where appropriate site conditions exist, while protecting the special interest and character of protected structures and Conservation Areas

Section 11.1.5.3 Protected Structures states: -

- All new works will be expected to relate sensitively to the architectural detail, scale, proportions and design of the original structure.
- Where possible, existing detailing, fabric and features of the structure should be preserved, repaired or, if missing or obscured, should be re-instated or revealed.
- The materials used for alterations, extensions or repairs should match the original and the use of non-traditional materials will not normally be acceptable.
- Original and historic fabric should be retained and protected, wherever possible.

- The design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure.
- The traditional proportionate relationship in scale between buildings, returns, gardens and mews structures should be retained, the retention of landscaping and trees (in good condition) which contribute to the special interest of the structure shall also be required.
- Any development which has an adverse impact on the setting of a protected structure will be refused planning permission.

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

Proposals for limited off street 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
- Access to and egress from the proposed parking space will not give rise to a traffic hazard
- The remaining soft landscaped area to the front of the structures should generally be 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 set-back from the house and front boundary wall to avoid excessive impact on the protected structure
- Car parking bays shall be no greater than 5m x 3m metres wide.
- The proposed vehicular entrance should, where possible be combined with the existing pedestrian entrance so as to form an entrance no greater than 2.6m and this 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 on the public footpath.

- Where cast iron railings exist, which contribute to the special character of the structure, every effort will be made to preserve and to maintain the maximum amount of original form and construction through minimum intervention.
- Any original existing gates, piers and cast-iron railings that require alterations shall be reused and integrated with all new parking.

Proposals for off-street parking in the front gardens of protected structures will not be permitted in the following circumstances;

- 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 outlined 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-occupied residential building will only be considered in exceptional circumstances where the integrity of the building or area is protected and retained.

National Legalisation

- Architectural Heritage Protection Guidelines (2004)

5.3. Natural Heritage Designations

There are two designed sites within 1.9km of the site.

- South Dublin Bay SAC (Site code: 000210)
- South Dublin Bay & River Tolka Estuary SPA (Site code: 004024)

5.4. EIA Screening

Having regard to the nature and scale of the proposed development, the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can,

therefore, be excluded at preliminary examination. 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 welcomes the notification of decision by the planning authority to grant planning permission for the works to the vehicular entrance to no. 10 Elgin Road.
- The appeal relates to the refusal of permission for works to No's 4,6 and 8.
- It is set out that the proposed entrances and boundary treatment have been designed with regard to the best conservation practice to protect and enhance the original feature of the existing railings and protected structures.
- The revised arrangements provide for minimal interventions and reduce the impact of the car parking on the character of the streetscape.
- The car parking proposed per unit has been reduced from two to one noting the parent planning permission (DCC Reg. Ref. 3973/18).
- It is set out that access and egress will not give rise to a traffic hazard and will provide additional on street public car parking space as a result. It is noted that the Transportation Department of Dublin City Council accepted the proposed development.
- It is argued that the development seeks to reuse and restore the original fabric of the boundary railings.
- The front garden landscaping has been designed to ensure the integrity of the protected structures is maintained.
- The car parking is separated from the protected structures through soft landscaping and the proposed parking bays are in line with the development plan requirements.
- It is set out that the retention of the pedestrian gates in addition to the vehicular entrances retains the original character of the property and is a more appropriate conservation response.

- It is set out that the redevelopment works seeks to restore the use of these properties to single family dwellings, providing for a significant planning gain.
- The provision of secure off-street car parking is a necessity for the safety of future occupants.
- It is set out that the provision of off-street parking is considered an integral element of any dwelling of this size and value and the impact of omitting the off-street car parking will reduce the value of the properties resulting in uncertainty to the viability of the project.
- It is set out that there is precedent in the general area where car parking space granted to the front of properties. The most recent identified as being in 2007.
- It is set out that the majority of properties on Elgin Road contain vehicular entrance points and the street is not dominated by pedestrian entrances as set out in the planner's report. These front gardens reflect extensive hard landscaped areas whilst the proposed development seeks to retain the character of the existing properties concealing the car parking with extensive soft landscaping.
- It is also argued that the existing railing are character to the wider surrounding area and are not considered unique to the properties and there will be no loss of existing fabric as the material will be reused and restored within the development.

6.1.1. **Planning Authority Response**

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

6.2. **Observations**

Two no. observations were received.

1. Philip O'Reilly, 18 Grosvenor Place, Rathmines, Dublin 6. A brief summary of the issues raised in the submission are set out below:
 - The house are protected structures within a Z2 residential conservation area.

- The proposal would seriously compromise the setting of these houses destroying original features.
2. James O'Reilly, 1 Raglan Road, Dublin 4. A brief summary of the issues raised in the submission are set out below:
- It is set out that the front boundaries retain their original ironwork and brickworks laid out when the houses were first built in 1860's onwards.
 - The submission notes the City Council's conservations architects report.
 - It is noted that the appeal makes no reference to the reason for refusal.
 - The submission cites selective precedents

6.3. Further Responses

None

7.0 Assessment

7.1. Introduction

7.1.1. The Planning Authority issued a split decision.

- Permission was **granted** for the replacement of boundary treatment to No. 10. single subject to two standard conditions.
- Permission **refused** for the provision of 3 no. new vehicular off-street entrance points to serve units 4, 6 and 8.

7.1.2. The applicant has requested the Board to review the decision of the planning authority to refuse permission for 3 no. new vehicular off-street entrance points to serve units 4, 6 and 8. The assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The main issues in the assessment of the proposed development are as follows:

- Impact on Architectural Heritage
- Appropriate Assessment

7.2. Impact on Architectural Heritage

- 7.2.1. The appeal site includes 4 no. protected structures, RPS No. 2498 (4 Elgin Road), RPS No. 2500 (6 Elgin Road), RPS No. 2501 (8 Elgin Road) and RPS No.2503 (10 Elgin Road) and has a zoning objective 'Z2 – Residential Neighbourhoods (Conservation Areas)' within the Dublin City Development Plan 2016-2022. Within areas zoned 'Z2', Section 11.1.5.4 of the Plan outlines that additional policy mechanisms will be used to conserve and protect the historic and architectural character of these areas, including policies CHC1, CHC2 and CHC8. Policy MT14 aims to minimise the loss of on-street car parking.
- 7.2.2. In the context of the subject site, Section 16.10.18 *Parking in the Curtilage of Protected Structures* and in Conservation Areas of the development plan provides for on-site car parking where certain criteria are met, in particular, where there is no significant loss of visual amenity and historic fabric.
- 7.2.3. Furthermore, *Appendix 5 Section 5: Road and Footpath Standards for Residential Development* of the development plan states that '*where driveways are provided, they shall be at least 2.5m or, at most, 3.6m in width, and shall not have outward opening gates*'. This is reinforced in the design standards set out in the planning authority's leaflet '*Parking Cars in Front Gardens*'. I note the planning authority's guidance sets out the basic dimensions to accommodate the footprint of a car within a front garden as 3 metres by 5 metres. The proposal is in accordance with these minimum standards.
- 7.2.4. With respect to no. 10 Elgin Road, I note the site is currently served by a vehicular entrance. The works proposed will improve and upgrade the existing arrangement in line with best conservation practice. In the context of the existing entrance on site, I have no issue with the proposal to upgrade the boundary treatment of no. 10 Elgin Road.
- 7.2.5. At present access to no. 4,6 and 8 Elgin Road is limited to pedestrian access only. The aforementioned Policy CHC8 of the Development Plan aims to facilitate off-street parking where appropriate site conditions exist, while protecting the special interest and character of conservation areas. The appellant contends that there is precedent for vehicular access on the road and the boundary works have been appropriately designed to provide for minimal interventions and the works will also reduce the impact of car parking on the character of the streetscape. Whilst I note

that appellants argument that a number of properties on Elgin Road contain vehicular entrance points and the street is not dominated by pedestrian entrances as set out in the planner's report. I also note that on street permit car parking is available on the street fronting the site. Site inspection was carried out late morning mid-week and there was ample available car parking in the area. There is no issue with parking in this area and in my opinion the insertion of additional entrances will represent more of a visual impact on the character of the streetscape than the existing on-street car parking which is buffered form the houses by a green landscape strip with intermittent mature trees.

7.2.6. Policy CHC1 of the development plan seeks the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city and Policy CHC2 seeks to ensure that the special interest of protected structures is protected. These policies are reinforced in section 13.4.3 of the Architectural Heritage Protection Guidelines which state that boundary features such as gates were often designed and located to enhance the approach to a building and relocating or removing such features would not only make them liable to damage during the works but may also adversely alter the relationship between the structure and the features of its curtilage. I consider the works proposed reflect significant alterations to three of the few remaining original intact front boundaries dating back to the late 1800's. I do not consider there is adequate justification for the removal of sections of original railings and plinth walls to form the vehicular entrances. I agree with the planning authority that the works would materially injure the original character of the properties and the wider streetscape setting. The development should be refused for this reason.

7.3. **Appropriate Assessment**

Having regard to the minor nature of the proposed development, the existing development on site, the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the 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 a split decision should be made, to:

(1) Grant permission for:

- the replacement of boundary treatment to No. 10. single subject to two standard conditions.

based on the reasons and considerations marked (1) under and subject to the conditions set out below (section 10.0), and

(2) Refuse permission for:

- the provision of 3 no. new vehicular off-street entrance points to serve units 4, 6 and 8.

based on the reasons and considerations marked (2) under (section 11.0)

9.0 Reasons and Considerations (1)

Having regard to the nature and scale of the proposed works to No 10 Elgin Road, it is considered that subject to compliance with the conditions below, the proposed works to the existing entrance would not be out of character with existing development within the area, would be acceptable in terms of visual impact and traffic safety, and would not seriously injure the residential amenities of the area or of property in the vicinity. The proposed extensions would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The proposed replacement of boundary treatment to No. 10. Elgin Road 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 works to the boundary of the protected structure shall be carried out with the input of specialist expertise in the form of a conservation architect and shall be carried out in accordance with the requirements of the Architectural Heritage Protection Guidelines and any other advice issued by the Department of Arts, Heritage and the Gaeltacht.

Reason: To safeguard the special architectural interest of the protected structure

11.0 Reasons and Considerations

The proposed works to provide three vehicular entrances to no. 4, no. 6 and no. 8 Elgin Road would seriously injure the architectural character of both the historic streetscape and the setting of the Protected Structures and would give rise to the loss of original historic fabric and character. The proposed works would be contrary to Section 16.10.18 of the Dublin City Development Plan 2016- 2022 and Policy CHC1, CHC2 and 13.4.3 of the Architectural Guidelines 2011 and would be contrary to the proper planning and sustainable development of the area

Irené McCormack

Planning Inspector

16th January 2020