



An
Bord
Pleanála

Inspector's Report

ABP-305588-19

Development	Construction of vehicular entrance to the curtilage of a Protected Structure to accommodate 3 car spaces; provision of pedestrian entrance and path; erection of a boundary metal fence and hedge screening.
Location	The Millhouse, Whitechurch Road, Rathfarnham, Dublin 14.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD18B/0535
Applicant(s)	Killian Casey and Emer Duffy
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions.
Type of Appeal	Third Party
Appellant(s)	Siobhan Perdissatt
Observer(s)	None.

Date of Site Inspection

19th February, 2020

Inspector

Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located on a triangular shaped corner site at the junction of Whitechurch Road and St. Patricks Cottages to the south of Rathfarnham village. The site has frontage onto both Whitechurch Road and St Patricks Cottages and there is a three storey detached house ('The Mill House') located at the northern end of the site. This house is included on the record of protected structures and dates from c.1810. There is currently no vehicular access to the site.
- 1.2. The site slopes significantly from south to north and from the east to the western side. The boundary to St. Patricks Cottages is characterised by a set back of approximately 2.7 metres from the footpath on the western side of St Patricks Terrace. This area is currently characterised by a grassed margin and partially overgrown strip that is planted with trees and which is within the ownership of South Dublin County Council. The site side of this strip of land is characterised by a wire fence and is partially planted.
- 1.3. The interior of the site is partially overgrown and characterised by a number of trees. There is currently no pedestrian or vehicular access to the site from St. Patricks Cottages and the terraced houses on the eastern side of the road have on street parking with cars parked partially on the footpath in view of the restricted width of the road. The road in the vicinity of the site is c.3.9 metres in width.
- 1.4. The stated area of the appeal site is c.0.1 ha.

2.0 Proposed Development

- 2.1. The proposed development comprises the creation of a vehicular access on the eastern side of the site with access from St Patrick's Cottages. The development comprises the creation of an opening of c.10 metres in width and parking for three cars within the boundary of the site.
- 2.2. The creation of the access will require the dropping of the footpath and the installation of a hard surface over the strip of land to the west of the footpath and between the footpath and the site boundary to facilitate access for vehicles. A new 2 metre high fence is proposed along the western boundary of the site and a 2 metre high sliding gate is proposed to the new vehicular entrance. Some raising of existing

ground levels is proposed within the body of the site to facilitate the provision of a level parking area and the parking area is proposed to be bounded by a railing of 1.2 metres in height. A gate in the railing is proposed at the western end of the parking area and steps are proposed in this location to connect with the level of the existing garden.

3.0 Planning Authority Decision

3.1. Request for Further Information

Prior to the issuing of a decision the Planning Authority issues a request for further information that included the following items / issues:

- The significant scale of the parking area is noted and the 10 metre width is considered excessive and such that it would impact on c.11 metres of the existing footpath with negative impacts on visual amenity and on street parking. The width of the access should be reduced to a maximum of 5.2 metres. Sections through the parking space / area are requested. Clarification regarding the public or private nature of the parking spaces is requested and, if private, measures to restrict parking are to be submitted.
- The consent of the council to works on public lands is required.
- A schedule of materials and finishes is to be submitted.
- Presence of a surface water sewer discharging to the Mill Stream is noted and the applicant is requested to submit cross section drawings showing the parking space and this watercourse.

The following information was submitted in response to the further information request issued:

- Revised plan submitted that indicates a reduced opening width to 5.2 metres and corresponding reduction in the impact on the footpath and verge. Tactile paving removed.

- Clarified that parking space is to be private and a sliding gate installed to separate it from the public area.
- Section drawing submitted showing the extent of the gabion walls to the parking area.
- Letter of consent from South Dublin County Council submitted.
- Schedule of materials and finishes submitted that includes the fence and gate to St Patricks Cottages, the parking area surface and the railing around the parking area and pathway within the curtilage of the protected structure.
- A cross section through the proposed parking area is submitted showing the location of the existing watercourse relative to the proposed parking area. .

3.2. **Decision**

The Planning Authority issued a Notification of decision to Grant Permission subject to seven conditions. The following are noted:

Condition No.3 requires that the permitted parking spaces shall only be used by residents of the house or visitors.

Condition No. 5 specifies that the gates to the parking area shall not be capable of obstructing any footpath, cycletrack roadway or public right of way.

3.3. **Planning Authority Reports**

3.3.1. Planning Reports

The initial report of the planning officer notes the observations received and the content of the internal reports. Further information relating to the scale of the parking area and width of opening, clarification regarding materials and consent from the local authority to crossing lands in the council's ownership. Second report subsequent to the submission of further information recommends a grant of permission consistent with the Notification of Decision which issued.

3.3.2. Other Technical Reports

Conservation Officer – No objection subject to conditions.

Water Services – Initial report recommends further information be sought regarding the culverted drain that runs through the site. Second report subsequent to the submission of FI states that no objection subject to conditions.

Roads Department – Initial report recommends further information on issues relating to the width of the opening, impact on the

Parks Department – No objection.

Economic Enterprise and Tourism Development Department – Consent to the council owned lands being included in the application.

3.4. Prescribed Bodies

Irish Water – No objection.

An Taisce – submission stating that the application should be assessed having regard to the amenities of the area and the impact on the protected structure.

3.5. Third Party Observations

The following is a summary of the main issues raised in the third party observations submitted to the Planning Authority:

- That the proposed development would impede existing on street parking.
- Privatisation of what is a public space.
- Increased traffic generation.
- Creation of a public safety issue and traffic hazard.
- Excessive number of parking spaces proposed.
- Area should be available for parking for all residents.

4.0 Planning History

The following planning history relates to the appeal site:

- South Dublin County Council Ref. SD07/0958; ABP Ref. PL06S.228107 – Permission refused for the construction of three houses within the curtilage of the Mill House and renovations to the Mill House building.
- South Dublin County Council Ref. SD06/0525; ABP Ref. PL06S.221214 – Permission refused for the construction of 5 no. own door apartments in a three storey building located within the curtilage of The Mill House and new vehicular access from Whitechurch Road and St Patricks Cottages. The undertaking of conservation works to the Mill House.

5.0 Policy Context

5.1. Development Plan

The site is located on lands that are located within the Whitechurch Road and Taylors Lane ACA and the Mill House building on the site is included on the Record of Protected Structures.

Section 11.5.2 of the *South Dublin County Development Plan, 2016-2022* relates too protected structures.

Section 11.5.3 relates to Architectural Conservation Areas (ACAs).

Section 11.4 of the Plan relates to transport and car parking.

5.2. Natural Heritage Designations

The site is not located in or close to any European site.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the third party grounds of appeal:

- That there are references in the reports of the planning authority to inaccurate figures for the width of the proposed opening and the area of off street parking.
- That the revised plans do not indicate a distance of the entrance from the adjoining property (to the north). There is no such dimension given on the revised plans and the entrance could therefore be located at any point.
- That the splay of the footpath will be significantly greater than indicated on the drawings and will be in excess of 10 metres.
- No clarification is provided as to how the fence will be attached to the wall at the southern end of the site.
- That permissions granted on the adjoining sites at Nos. 49 and 50 required the reinforcement of the sections of the Mill Stream where it ran through these properties. It is not understood why this was not requested in the case of the proposed development.
- That the space requirement to accommodate a turning radius of a standard vehicle would mean that there would not be access available without parking outside the properties on the opposite side of the road being impacted.

6.2. Applicant Response

The following is a summary of the main issues raised in the first party response to the grounds of appeal:

- That the entrance is required as the existing Mill House does not have any off street parking provision.
- That the size and width of the parking area was the subject of a further information request for a reduction in size. This request was complied with.

- That the Council roads department note that there are no designated parking spaces on St Patricks Cottages and that illegal parking may be occurring.
- That the 6.688 metre width highlighted by the appellant is the width of the splay and not the physical width of any item or structure.
- That the applicants are making a genuine attempt to provide for their parking requirement within their own property and that the appellants would appear to wish that this was not undertaken and to further contribute to the illegal parking in the area.
- That there is no ambiguity regarding the location of the proposed entrance, it is as indicated on the revised drawings and conditioned by Condition No.1 of the decision.
- That the security fencing can be adequately fixed to the existing stone wall at the southern end of the site.
- That the requested cross section through the parking area was submitted to the Planning Authority who considered it acceptable. The comparisons with the reinforcement requirements over the stream at other sites is not considered relevant.
- An auto track analysis is submitted which indicates how access to the parking spaces can be undertaken and which refutes the issues regarding access made by the appellants.

6.3. Planning Authority Response

The response received from the Planning Authority states that the Planning Authority confirms its decision and that the issues raised have been addressed in the Planners Report.

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Principle of Development and Issues Raised Relating to Discrepancies in Submitted Drawings,
- Visual and Conservation Impacts
- Traffic Safety and Access Issues
- Other Issues
- Appropriate Assessment

7.2. Principle of Development and Issues Raised Relating to Discrepancies in Submitted Drawings,

- 7.2.1. The appeal site is located on lands that are zoned Objective RES under the provisions of the South Dublin County Development Plan, 2016-2022. The form of development proposed comprising off street parking is considered to be acceptable in principle subject to compliance with other relevant policies and objectives and specifically those relating to development in the curtilage of protected structures, within identified architectural conservation areas (ACAs) and issues of traffic and pedestrian safety.
- 7.2.2. The layout of the existing house on the appeal site is such that there is currently no provision for off street parking. Given the size of the site and the restricted on street parking in the vicinity of the appeal site I consider that the principle of off street parking to serve the existing house is to be welcomed subject to compliance with relevant policies and objectives relating to the areas identified above.
- 7.2.3. In view of the location of the site within the curtilage of a protected structure, its location within an ACA and also the extent of the parking area as originally proposed including the width of the opening, I agree with the assessment made by the Planning Authority that the development as originally submitted would have potential negative visual and conservation impacts. The reduction in the scale of the parking area and width of the vehicular access requested by way of further information is, in

my opinion appropriate and this assessment therefore relates to the revised layout submitted to the Planning Authority on 20th August, 2019.

- 7.2.4. I note the fact that the appellant has raised a number of issues with regard to the variation in the widths of the proposed entrance and extent of parking area proposed and that the revised plans do not clearly indicate the location of the proposed entrance as the distance of the entrance from the boundary with the site to the north is lacking. On this issue, I note that the planning authority documents on file, specifically the two planners reports and the report of the Roads and Traffic Department, do make reference to different dimensions for the width of the proposed entrance. The request for further information and the response received from the first party is however in my opinion clear in that the initial width, while not specifically objected to by the Road Department was considered excessive by the Planning Officer on the basis of its impact on visual amenity. The further information request was clear with regard to the maximum width considered appropriate, this width corresponded with that referred to in the first report of the Planning Officer and was complied with in the response submitted by the first party.
- 7.2.5. The comment of the appellant that splay of the footpath will be significantly greater than indicated on the drawings and will be in excess of 10 metres is not in my opinion accurate and a measurement of the width of the drop section of the kerb as per the revised layout indicates a maximum width of c.9.6 metres and then only at the edge of the footpath. I also consider that, contrary to the statement of the appellant, there is no ambiguity regarding the location of the proposed entrance. The proposed location is clearly indicated on the revised Site Layout Plan submitted as part of the response to further information and compliance with this location is a requirement of the permission and specifically required to comply with Condition No. 1 of the decision issued.
- 7.2.6. In examining the dimensions of the proposed access and parking area it is evident that the cited dimensions on the Landscape Masterplan and Details Drawing (scale 1:100) submitted as part of the response to further information, does not scale correctly. For example, the width of the proposed access scales to c.4.6 metres on this drawing rather than the 5.2 metres stated in the response to FI. In the event of a grant of permission it is therefore recommended that the maximum width of 5.2

would be specified and that a revised Landscape Masterplan drawing to an accurate scale would be conditioned to be submitted to the Planning Authority for agreement.

- 7.2.7. Having regard to the above, I do not consider that there is any ambiguity with regard to what was considered by the Planning Authority to be an appropriate width of entrance or to the commitment of the first party to comply with the requirement on this issue which was a maximum width of entrance of 5.2 metres and maximum parking area to accommodate two cars.

7.3. Visual and Conservation Impacts

- 7.3.1. The existing house on the appeal site is included on the record of protected structures and the proposed parking area is located within the curtilage of this structure. The proposed parking area and the associated steps and path connecting to the house would have some impact on the character and setting of the protected structure on site however I would agree with the assessment of the council's conservation officer that any impacts in this regard would be limited. The revised parking layout is of a limited scale and would be located c.20 metres from the house at the closest point. The design and materials proposed are in my opinion acceptable and not such as would impact significantly on the overall character or setting of the protected structure. On this issue it is also noted that the main views of the house are from the far (western) side of the site and that the parking area and access proposed would not impact on any of the main views of the house.
- 7.3.2. I note that the site is also located within the boundary of the Whitechurch Road and Taylors Lane Cottages ACA. Policy HCL4 of the development plan relates to ACAs and includes provisions to avoid the removal of structures and features that contribute the character of the ACA and ensure that new development enhances the special character and visual setting of the ACA. In the case of the appeal site, while the proposed development would impact on the existing boundary of the site and the grassed margin between the site and the footpath I do not consider that the nature and scale of the works proposed or the site context are such that the development would be contrary to Policy HCL4 of the Plan. The proposed fence would be well set back from the footpath and screened by the existing trees along the margin at the

western side of St. Patrick's Cottages and the materials, design and scale of the proposed fence and gate are considered to be acceptable.

- 7.3.3. I note the specific reference in the appeal to a lack of detail as to how the fence will be attached to the wall at the southern end of the site. On this issue I would agree with the first party response that the details of this treatment and the method of support for the fence was provided as part of the application documentation. This information is noted and I would agree with the assessment of the Conservation Officer and the Planning Officer of the council that the fence is acceptable in terms of its impact on the character and setting of the existing protected structure on site.

7.4. Traffic Safety and Access Issues

- 7.4.1. The appeal submission and third party observations made to the Planning Authority raise concerns regarding the impact of the proposed development on the existing parking situation on St Patricks Cottages. The current parking layout is that the existing houses on the eastern side of the street park on this side. Parking is partially on the footpath on account of the restricted width of the road, which is generally less than 4 metres, and no parking is possible on the western side of the street.
- 7.4.2. The proposed new access would have the effect of providing off street parking for the occupants of Mill House. It is not evident from the information presented where the occupants of this house currently park, however the provision of off street parking would be likely to reduce overall pressure for on street parking. Given that parking is not possible on the western side of the street without blocking traffic I do not see that the provision of a vehicular access in the location proposed would reduce the availability of off street parking provided that access and egress could be undertaken with cars parked on the eastern side of the street.
- 7.4.3. The case made by the appellant is that access to and egress from the site would not be possible without some restriction on street parking opposite the entrance being required. From an inspection of the appeal site and having regard to the c.4.5 metre set back between the boundary of the appeal site and the road edge, I consider that the revised layout submitted as part of the response to further information would result in adequate space for traffic entering and exiting the site to do so with cars

parked opposite the entrance. As part of the response to the appeal the first party has submitted an autotrack analysis of the entry and exit movements to the site. While this analysis indicates vehicles entering and exiting the site occupying the far (eastern) side of the roadway, it is my opinion that access to both parking spaces in a single turning movement would be feasible in a situation where cars were parked on street opposite the proposed entrance, albeit that some slight increase in the width of the dropped kerb to the footpath over that indicated on the submitted plans may be required.

7.5. Other Issues

- 7.5.1. I note the presence of a surface water sewer discharging to the Mill Stream which passes through the eastern side of the site and beneath the proposed parking area. The location of this sewer and its relationship with the proposed parking area and extent of ground level changes proposed in this area was the subject of a request for further information issued by the Planning Authority. The response submitted comprises a cross section which shows the line of the sewer, the invert level of which is approximately 2.5 metres below the level of the proposed parking area. This response was considered to be satisfactory by the council and I do not consider that there is any basis to indicate that the proposed development would impact negatively on the integrity of this connection.
- 7.5.2. The appellant notes the fact that permissions granted on the adjoining sites at Nos. 49 and 50 required the reinforcement of the sections of the Mill Stream where it ran through these properties and that it is not understood why this was not requested in the case of the proposed development. On this issue I would agree with the first party that the circumstances on other sites which were the subject of residential development with extensive foundations are not comparable with that on the appeal site.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

Having regard to the above, it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions:

9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not have an adverse impact on the character or setting of any protected structure or on the character of the Whitechurch Road and Taylors Lane Cottages ACA, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. 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 as amended by the further plans and particulars submitted on the 20th day of August 2019 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 following shall be complied with in the development:
 - (a) The maximum width of the permitted vehicular access shall be 5.2 metres.
 - (b) The extent of the permitted off street parking area shall not exceed 5.2 metres in width by 6.0 metres in length and shall be used for the parking of not more than two cars.
 - (c) Prior to the commencement of development, a revised Landscape Masterplan drawing to a scale of 1:100 shall be submitted for the written agreement of the Planning Authority. This revised drawing shall indicate the site to the correct scale as per the dimensions specified above and those indicated on the Landscape Sections and Details Drawing received by the Planning Authority on 20th August, 2019.

Reason: To clarify the extent of the permission.

3. The following shall be complied with in the development:
 - (a) The permitted parking spaces shall only be used in connection with the residential use of the site and shall not be separated from the existing dwelling by sale or lease save with a prior grant of planning permission.

- (b) Gates erected on the site shall not extend beyond the site boundary and shall not be capable of extending across any footpath, cyclepath or public area.
- (c) Finishes to the permitted metal boundary shall comprise a green or black painted or factory finish.

Reason: In the interests of visual amenity and protection of the character and setting of the protected structure on site and the Whitechurch Road and Taylors Lane Cottages ACA

- 4. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

- 5. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0900 to 1300 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: In order to safeguard the [residential] amenities of property in the vicinity.

Stephen Kay
Planning Inspector

11th March, 2020