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Bord  
Pleanála

## Inspector's Report ABP-305916-19.

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<b>Development</b>	Demolish studio building and construct dwellinghouse with associated site works at protected structure.
<b>Location</b>	Bushfield House, 57 Philipsburgh Avenue, Fairview, Dublin 3.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	3852/19.
<b>Applicant</b>	MOB Accountants.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	MOB Accountants.
<b>Observer</b>	1. Michael Flannery. 2. Martina Kelly.
<b>Date of Site Inspection</b>	2 <sup>nd</sup> March 2020.
<b>Inspector</b>	Mairead Kenny.

## 1.0 Site Location and Description

- 1.1. The site is within the curtilage of a protected structure, Bushfield House. Bushfield House dates to the late 18<sup>th</sup> century. The building is a seven bay two-storey over basement red brick house which is of t-shaped plan. The front façade is finished in brick and is dominated by the main entrance door to the right of which is a large bow window feature, which is prominent in views from the street. There is a small single storey studio building (c. 2.3m in height and finished with a flat roof) which is low profile and small in scale. The house is in use as offices and the studio for storage.
- 1.2. The setting and curtilage of the protected structure have been greatly impacted by development from the twentieth century. There is an estate of two-storey houses to the west on the former grounds and the access road to those houses passes the front of the protected structures. There is a terrace of three-storey houses / apartments immediately adjoining the house to the north. These are described as back to back development. Some of the units are marginally below the street level.
- 1.3. As viewed from Philipsburg Avenue the front façade of the protected structure is perpendicular to the street and the bow window in particular is visible from the south and the side gable is dominant in views from the north.
- 1.4. Photographs of the site and the surrounding area which were taken at the time of my inspection are attached.

## 2.0 Proposed Development

- 2.1. Permission is sought for the demolition of a single storey studio building, which is of stated area of 17m<sup>2</sup> and for the construction of a two storey dwelling to replace that structure.
- 2.2. The stated floor area of the proposed dwelling house is 62 m<sup>2</sup>. It is described as a one bedroom two-storey house with an occupancy of two persons.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to refuse permission for two reasons summarised below:

- The proposed development would infringe the established building line, would by reason of its scale and orientation cast shadow over the front elevation of adjoining residential block and have an unacceptable effect on amenities of the adjacent building, would be inconsistent with the design and scale of the adjoining dwellings, would therefore contravene section 16.10.9 of the development plan.
- The proposed development would erode the architectural character and seriously injure the setting of the protected structure and thereby contravene section 11.1.5.1 CHC 2(a)(b)(d) of the development plan and be contrary to the zoning objective.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The main points of this report include:

- The design of the house is not compatible with the scale and design of adjoining dwellings have regard to the established building line, proportion, heights, parapet levels and materials.
- The development involving replacement of a single storey building of 2.28 m height with a two storey structure of 7.07 m height directly abutting a boundary wall due to its location south of an existing apartment block would cast a shadow onto the front elevation of residential units and deprive them of natural light contrary to the residential amenity.
- The development involving construction of an additional two storey house set forward of the protected structure and the townhouses would excessively breach the established building line contrary to section 16.10.9 of the development plan.

- The minimum standards for the two bedroom three person two-storey house is 70m<sup>2</sup> under table 5.1 of Quality Housing for Sustainable Communities. There is no guidance for a one bedroom two person two-storey house under these guidelines.
- Section 16.10.2 of the development plan requires 10 m<sup>2</sup> of private open space per bed space resulting in a requirement of 20 m<sup>2</sup> minimum. Provision of private open space is inadequate.
- By reason of its scale and location the development would adversely affect the setting of a protected structure contrary to protection of visual amenity and contrary to zoning objective Z2.

### 3.2.2. Other Technical Reports

Conservation Officer – this notes the inclusion of the protected structure on the NIAH and that it has been afforded a Regional rating. The setting and curtilage have been seriously compromised by an unsympathetic three-storey townhouse development constructed immediately to the rear of the building within what would have been the original curtilage of the historic house. The loss of the only remaining open space is not supported.

The design of the proposal bears little relationship to the architectural character materials or proportions of the protected structure. It would be important to retain all trees in the vicinity.

Permission should be refused for reason of further erosion of the architectural character and further seriously injury to the setting of the protected structure which has already been seriously injured by unsympathetic development in the past. The proposed works would contravene section 11.1.5.1 CHC2 (a)(b)(d) of the development plan.

Drainage Division -no objection.

### 3.3. Prescribed Bodies

No reports received.

### **3.4. Third Party Observations**

Amongst the points made in the third party observations are:

- Apartment 12B is a duplex unit and the only light source, which is to the front would be significantly impacted.
- The development would have an overbearing appearance when viewed from the apartments at Bushfield Square. The impact of the 7 m high building is exacerbated as some apartments are below ground level.
- No drawings or elevations are submitted to show the impact of the new structure from the apartments.

### **4.0 Planning History**

There is no recent relevant planning history.

### **5.0 Policy Context**

#### **5.1. Development Plan**

The site is within an area zoned Z2 'to protect and / or improve the amenities of residential conservation areas'.

Bushfield House is identified as a protected structure.

Policy relating to the construction of houses inside gardens is set out in section 16.10.9 and refers to the undertaking of such developments in suitable sites and having regard to the character of the street, the compatibility of design and scale, open space standards, provision of appropriate parking, provision of landscaping and boundary treatments and the maintenance of front and side building lines where appropriate.

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

None in the immediate vicinity.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main points of the appeal include:

- the development which will contribute to investment for repairs and ongoing maintenance is a modest building and is acceptable on conservation grounds
- while the relationship of the protected structure to its original curtilage has been lost it retains much of its original character and retains a reasonable curtilage
- the scale form and architectural treatment and character of the dwelling respect the character of the protected structure
- the proposed new boundary walls and railing constitute an improvement
- in view of the nature and scale of the development and the established pattern of development the proposed development accords with the development plan policy including the zoning
- it is not accepted that there would be undue overshadowing or overlooking to the adjacent residential properties and the proposed setback of the building at first floor level and its overall height are noted.

### 6.2. Planning Authority Response

No substantive response has been received.

### 6.3. Observations

The main points of the observations are:

- The 7 m high building would be overbearing. It would have a significant adverse impact on my apartment which is below ground level and lit only by windows to the front.

- By reason of scale and orientation the development would cast a shadow over the front elevation of adjoining residential block and have an unacceptable effect on the amenities.
- The development would infringe the established building line and be inconsistent in terms of design and scale.
- Development would erode the architectural character and seriously injure the setting of the protected structure. The remaining garden needs to be protected to prevent further erosion of the architectural character of the protected structure. There has been a loss of a historic tree.
- The management company objects to the development by reason of use of common areas for access to parking and will not agree to this as well as the elimination of two parking spaces associated with the operation of Bushfield House.

#### 6.4. Further Responses

None.

#### 7.0 Assessment

7.1. I consider that the substantive matters in the appeal are as set out in the reasons for refusal which were presented by the planning authority. These relate to the impact on the protected structure and residential amenity.

7.2. Regarding **the impact on residential amenity** I consider that the case is clear-cut. The subject development would be positioned to the south-east of residential development including rooms which are slightly below street level and which are single aspect. The existing studio/boundary wall at this location would be likely to result in some level of overshadowing, which I consider would be marginally increased by the proposed two-storey structure. Furthermore due to the proximity of the proposed two-storey element to the first floor residential spaces the outlook from these areas would be obstructed. The two-storey element would be located 3.5m from the large windows which serve the single aspect units. A development of this nature in such close proximity to single aspect residential units would set a very

undesirable precedent. I include that the development would have a significant and unacceptable impact on residential amenities of adjacent properties and that a refusal of permission is warranted.

- 7.3. Regarding the amenities which would be offered to future occupants of the house, I consider that in the context of this particular location and given the detailed design of the internal layout, there are merits to the proposal. I note that the planning authority has referred to the lack of open space. Nevertheless, I would not recommend reason for refusal related to substandard residential amenities for future occupants.
- 7.4. Regarding the reference in the decision of the planning authority to the building line I conclude as follows. It is a reasonable requirement as set out in the development plan policy relating to consideration of houses in corner sites/side gardens that the building line be taken into consideration. The appeal submission includes images which demonstrate that the building line is not uniform. However, in my opinion within this particular block at Phillipsburg Avenue the building line is established by the side wall of the protected structure and the three-storey development to the rear. Therefore I conclude that the proposed development in that context would be incongruous and would breach a strong and established building line.
- 7.5. Regarding the **impact of the development on the setting of the protected structure** the curtilage has already been subject of significant development. The building is on the NIAH and is given a Regional rating. This fact was not picked up in the applicant's assessment and there appears to be an error on the NIAH map and online records. However, as the Conservation Officer of DCC identifies, there is a listing under reference 50120058. The Conservation Officer quotes from the NIAH record which describes the house as a 'significant house' and as 'striking and imposing' and that 'the setting and curtilage have been seriously compromised by an unsympathetic three-storey townhouse development' to the rear and by Bushfield Square within the original curtilage.
- 7.6. The Conservation Officer states that it would be important to ensure that the remaining garden spaces and amenity spaces would be protected and/or enhanced in order to protect the special architectural character and setting of the protected structure.



- 7.7. I agree with the assessment by the planning authority that the setting has been significantly adversely impacted. The applicant also acknowledges this fact. The building is nevertheless a protected structure and it remains an imposing and striking feature in the area. The application submission was accompanied by a conservation assessment which referred to the fact that the dwelling is set back from the protected structure and from adjoining buildings. It is also submitted that the demolition of the studio building and landscaping of the grounds will be positive developments. The contemporary design of the building is stated to be differentiated from the protected structure and it is proposed that works, which include replacement of a modern wall with a stone wall could be supervised by a conservation architect. Due to its small massing and simple form it is considered that the proposed two-storey dwelling house would be unobtrusive when viewed from the protected structure or the street. The roof form, overall massing, eaves height, fenestration rhythm and materials are all described as sympathetic to the existing building.
- 7.8. I agree with the first party submission that the retention of office use appears to have been successful insofar as the interiors of the building and the main structure are maintained in apparently good order. The first party has noted that the maintenance of the protected structure has associated costs and that the development would ensure ongoing investment for repairs and maintenance in the future. That is accepted. However there has to be some limits to the level of encroachment onto the setting and curtilage of any protected structure. In this case the front, side and rear of the buildings and the setting of the structure have been significantly and adversely affected by residential development.
- 7.9. The development would involve demolition of a very small studio structure, which I consider is reasonably unobtrusive. I consider that this is a limited gain.
- 7.10. The main components of the development comprise construction of an attractive two-storey house with a new stone wall at Phillipsburg Avenue. I consider that the design approach is successful and I note the separation from the protected structure. Nevertheless I share the concerns of the planning authority insofar as the development would further restrict views to the protected structure from the East and would constitute a further encroachment onto the curtilage. I am unable to conclude that the further development of a two-storey house within the only remaining open space associated with the protected structure is acceptable. I disagree that the

development would still retain a reasonable curtilage. I do not consider that the fact that the setting has already been significantly impacted is sufficient justification for this further encroachment. In my opinion this is not a suitable location for any further development of this scale. I recommend that reason 2 of the decision of the planning authority be upheld.

## 8.0 Recommendation

8.1. I recommend that the decision of the planning authority to refuse permission be upheld for the reasons and considerations below.

## 9.0 Reasons and Considerations

1. Having regard to the location of the proposed two-storey house, its proximity to residential development and its position relative to an established building line at Phillipsburg Avenue, it is considered that the proposed development would constitute an incongruous and visually obtrusive feature, which would detract from the visual and residential amenities of the area and be contrary to the provisions of the development plan.
2. It is considered that the proposed development by reason of its height and location in the curtilage of a protected structure, which already hosts a very high level of modern residential development, would give rise to further encroachment onto the setting of the structure and would detract from views to the protected structure and thus detract from its character and its architectural integrity. The proposed development would, therefore contravene the provisions of the development plan and be contrary to the proper planning and development of the area.

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Mairead Kenny  
Senior Planning Inspector

19<sup>th</sup> March 2020