



An
Bord
Pleanála

Inspector's Report

ABP-308057-20

Development	Permission sought to demolish existing 2-storey dwelling and erect a new single storey garage.
Location	13 Shamrock Villas, Harold's Cross, Dublin 6W
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2424/20
Applicant(s)	Harold Properties Ltd.
Type of Application	Permission.
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Harold Properties Ltd.
Observer(s)	None
Date of Site Inspection	06/11/20
Inspector	Adrian Ormsby

1.0 Site Location and Description

- 1.1. The site is 3 km to the south west of Dublin City centre at 13 Shamrock Villas in Harold's Cross. The stated site area is 61.10 sq.m.
- 1.2. The site is on a road/laneway accessed by vehicular and pedestrian traffic from a small spur section of the Harold's Cross Road that links the main Harold's Cross Road to Kimmage Road Lower. The spur road runs along the southern boundary of Harold's Cross Park. The site is c. 80m south of the park. The site can be accessed by pedestrians only from Mountain View Avenue at the southern end of Shamrock Villas. There is a pedestrian path, bollards and a control gate in place restricting vehicular traffic at this end of the road/laneway.
- 1.3. Shamrock Villas is characterised by a number of different commercial buildings including a gym, motor companies, some residential properties, rear yards of properties facing the main Harold's Cross Road to the east and properties that appear to be in garage/shed like use.
- 1.4. The existing building on site can be described as a derelict two storey three bay dwelling with no roof and the window and door openings are boarded up. There is a garage like structure to its immediate north with a roller shutter. The site to the immediate south is gated to the road and there was a car parked here at the time of the inspection.
- 1.5. There are double yellow lines along the eastern side of Shamrock Villas including in front of the application site. There is a pedestrian path on the opposite side of the road.

2.0 Proposed Development

- 2.1. The proposed development comprises-
 - Demolition of existing 2-storey structure 72 sq.m, 5.67m high
 - erect new single storey garage 53.57 sq.m, 3.125m high
 - the garage is to park 3 cars.
- 2.1.1. Further Information was requested, and the following detail was submitted-

- Bay 1 of the car will be allocated for the sole use of the management of 'Your Fitness Gym' at 7-9 Shamrock Villas
- Bay 2 and 3 will be allocated for the sole use of staff of the workshop at No. 10 Shamrock Villas (tenants of Harold Properties), This property has no current parking.
- The garage will be finished in nap render to rear and side.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to refuse permission on the 10-08-20, for the following reason-

“Having regard to the sustainable location of the site, it is considered that the proposed development would constitute an inefficient use of finite urban land, encourage commuting by private car and would set an undesirable precedent for similar such developments. The proposed development would therefore be contrary to Policies MT2, MT13, MT15 and MT16 of the Dublin City Development Plan 2016-2022, which seek to promote sustainable travel, control car parking in the city and discourage commuter car parking, and would be contrary to the proper planning and sustainable development of the area.”

4.0 Planning Authority Reports

4.1.1. Planning Reports

The final report of the Planning Officer (dated 07-08-20) reflects the decision of the Planning Authority. The following is noted from the report:

- The building is not considered habitable a habitable dwelling and overall, the principle of the development is acceptable.
- The proposal will not result in increased impacts on neighbouring occupier in terms of overbearing, daylight or sunlight.

- Following a request for further information the 3 parking spaces are to be used by the management of 'Your Gym' and 2 spaces for staff of the workshop at 10 Shamrock Villas.
- The Transport Planning Division recommend refusal noting a number of policies to encourage sustainable modes of transport.
- It would appear the proposed development would encourage commuter parking contrary to the development plan. The proposal constitutes an inefficient use of land in a sustainable urban location.

4.1.2. Other Technical Reports

- Roads and Traffic Planning Division-

Following request for Further information, refusal recommended.

- Drainage Division- No objection subject to condition

4.1.3. Prescribed Bodies

- None

4.1.4. Third Party Observations

- None

5.0 Planning History

5.1.1. There does not appear to be any planning history pertaining to the appeal site.

5.1.2. Adjoining Site-

- 2810/13- demolish existing derelict cottage, use the site as car-park for the exclusive use of No 12 Shamrock Villas. 30/09/13, Grant. Condition 2 states-
The car parking spaces hereby approved shall be used only in conjunction with the commercial building at No. 12 Shamrock Villas and shall not be let or sold independently of this building. An internal connection shall be provided and maintained between the car parking area and No. 12. A revised ground

floor plan showing this shall be submitted for the written agreement of the Planning Authority prior to commencement of development.

6.0 Policy Context

6.1. Ministerial Guidelines

6.1.1. Development Management Guidelines for Planning Authorities 2007

Section 7.5- Temporary permissions

“In deciding whether a temporary permission, which can apply to a particular structure or use, is appropriate, three main factors should be taken into account. First, the grant of a temporary permission will rarely be justified where an applicant wishes to carry out development of a permanent nature that conforms with the provisions of the development plan. Secondly, it is undesirable to impose a condition involving the removal or demolition of a structure that is clearly intended to be permanent. Lastly, it must be remembered that the material considerations to which regard must be had in dealing with applications are not limited or made different by a decision to make the permission a temporary one. Thus, 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. An application for a temporary permission may, however, raise different material considerations from an application for permanent permission.....”

6.2. Dublin City Development Plan 2016–2022

The site has a Z4 Zoning Objective- *‘To provide for and improve mixed-services facilities.’*

‘Car Park’ is a permissible use within this zoning.

The site is not located within a designated ‘Key District Centre’.

Other Policies

QH23: To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land.

MT2: Whilst having regard to the necessity for private car usage and the economic benefit to the city centre retail core as well as the city and national economy, to continue to promote modal shift from private car use towards increased use of more sustainable forms of transport such as cycling, walking and public transport, and to co-operate with the NTA, Transport Infrastructure Ireland (TII) and other transport agencies in progressing an integrated set of transport objectives. Initiatives contained in the government's 'Smarter Travel' document and in the NTA's draft transport strategy are key elements of this approach.

MT13: To promote best practice mobility management and travel planning to balance car use to capacity and provide for necessary mobility via sustainable transport modes.

MT15: To discourage commuter parking and to ensure adequate but not excessive parking provision for short-term shopping, business and leisure uses.

MT16: To control the supply and price of all parking in the city in order to achieve sustainable transportation policy objectives.

6.3. Natural Heritage Designations

6.3.1. None Relevant

6.4. EIA Screening

6.4.1. Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

A first-party appeal has been lodged. The following is a summary of the main issues raised-

- The appeal sets out the context of the site and the laneway and historical intentions to redevelop the overall lands which foundered because of the economic conditions of 2008/09.
- This area of Harold's Cross is in need of rejuvenation and many developments are in progress. It is inevitable that major redevelopment in the Shamrock Villas area will occur in the next 5-10 years. A replacement dwelling in this context would be imprudent.
- There is a short term need for additional parking in the area.
- There are a number of restrictions to redeveloping the site on its own and in an alternative way including-
 - safety concerns of building directly to road edge
 - height restrictions due to overbearing, overshadowing and loss of amenity
 - The site is too restricted in size to provide a replacement dwelling or apartment to meet current standards.
 - Difficulties in detaching the property from the adjoining site at 13A.
 - Windows could only be provided to the front of the house to avoid overlooking.
 - Services do not exist on site.
- An analysis and map of the lands owned by the applicant is provided setting out the need for additional parking-
 - The Gym at 7-9 Shamrock Villas (Opposite Site) has 10 staff, approx. 800 members, 8 car parking spaces and a cycle rack. During busy times cars can park inappropriately.

- The proposal will support local employment and help alleviate parking difficulties.
- The metal fabrication business at 10 Shamrock Villas (Opposite Site to south west) has operated for over 12 years. It does not have its own parking spaces. There is a yellow grid directly outside. They have parked at the gym at 7-9 Shamrock Villas at the good will of their neighbours.
- Increased staff plus gym membership increases has led to the withdrawal of this parking option.
- 11 & 12 Shamrock Villas- Carparking restricted by condition 2 of planning ref 2810/13
- 13A (Adjoins site) & 14 Shamrock Villas has capacity for 2 car parking spaces that are used by the lease holder. This is leased by the gym owner at No. 7-9.
- 212 and 208B Harold's Cross. Parking is used by living above the shop tenant and staff members. 4 spaces are accommodated.
- If the existing structure is left in its present state it will be demolished by DCC's Dangerous Structures Department. It is better for the property to be developed instead of laying idle.
- A temporary permission for a period of 8 years is sought.

7.2. Planning Authority Response

- No response received to the grounds of appeal.

7.3. Observations

- None

8.0 Assessment

- 8.1.1. I have examined the application details and all other documentation on file, including the submissions received in relation to the appeal. I have inspected the site from the public road and its surrounding area.

8.2. Zoning

- 8.2.1. The site is zoned in the Development Plan as a Zone Z4 District Centre. The zoning objective for Z4 lands states- *'To provide for and improve mixed-services facilities.'* In this regards it is noted that 'Car Park' is a Permissible Uses for this Zoning Objective.
- 8.2.2. The proposed car parking spaces are to be used by the existing gym and metal fabrication business opposite the application site. It is noted that 'recreational building and uses' is a listed Permissible Use in Z4 Zoning. Metal Fabrication uses are not specifically listed as Permissible or Open for Consideration. However, it is noted that a garage (motor repair/ service) is a use that is Open for Consideration. Metal fabrication is an activity that is synonymous with Car Repair and as the use is existing on the laneway, I am satisfied the proposed parking spaces for this business would be consistent and ancillary to its current use.

8.3. Demolition of the Structure

- 8.3.1. The existing structure on site appears to have originally being a house. Policy QH23 of the Development Plan clearly discourages the demolition of 'habitable housing' unless certain criteria is provided for having regard to the scarcity of urban land. The existing structure on site is in a very poor state of repair and has no roof. Window and doors are boarded up. In this instance I am satisfied that the existing structure is not a habitable house and in order to avoid further unsightly and dangerous deterioration of the structure I am satisfied it should be demolished.

8.4. Temporary Permission

- 8.4.1. The Planning Authority considers that the proposed development would constitute an inefficient use of finite urban land, encourage commuting by private car and would

set an undesirable precedent for similar such developments. They cite a number of policies of which the development would be contrary to, including MT2, MT13, MT15 and MT16. In general, these policies seek to promote sustainable travel, control car parking in the city and discourage commuter car parking.

- 8.4.2. It is noted the applicants did not originally apply for a temporary permission in the public notices and as such it does not appear to have been a consideration for the Planning Authority.
- 8.4.3. The applicants contend that the sites current restrictions and limited size, ensure it is not suitable for redevelopment on its own. There is an existing demand on the laneway from two businesses for parking and it would be more appropriate to meet this demand than to allow the site to be demolished and lay idle. The applicants acknowledge the site and its wider context is in need of redevelopment and a temporary permission of eight years is sought.
- 8.4.4. Section 7.5 of the Development Management Guidelines 2007 generally discourage the granting of permission on a temporary basis and state there are three main factors that should be taken into consideration-
- 8.4.5. The first factor details that the nature of a development will rarely be justified where an applicant wishes to carry out development of a permanent nature that conforms with the provisions of the development plan. The applicants have made it very clear in their appeal that the proposed development is not one to be considered on a permanent basis. I am also satisfied the proposed development complies with the zoning objective of the Development Plan. The applicants seek a temporary permission on the basis that a more comprehensive redevelopment of the application site and surrounding lands in their ownership is inevitable.
- 8.4.6. The second factor details that it is undesirable to impose a condition involving the removal or demolition of a structure at the end of a temporary permission that is clearly intended to be permanent. The applicants have made it very clear in their appeal that the proposed development is not one to be considered on a permanent basis.
- 8.4.7. The third factor refers to the reason for a temporary permission which can never be that a time limit is necessary because of the adverse effect of the development on the amenities of the area. The guidelines state that if amenities will be affected by

the development, they can only be safeguarded by ensuring that it does not take place. The Planning Authority's concerns appear to relate to the unsustainable nature of commuter car parking and the potential use of the site for commercial parking. The proposed development is for three car parking spaces only that are to be used ancillary to existing businesses on this laneway. Subject to appropriate conditions ensuring the spaces operate ancillary to these existing businesses I do not consider the proposal will have adverse effects on the amenities of the area.

- 8.4.8. Accordingly, and in this context, given the favourable location of the site, its current derelict condition and the difficulty in redeveloping the site on its own, I am satisfied that it is a reasonable and pragmatic situation to consider a temporary permission having regard to the longer term potential for the site and the surrounding area. The period sought of eight years is however, considered excessive and unlikely to bring forward redevelopment in a timely manner. In order to encourage suitable redevelopment of this area, a period of three years is considered appropriate.

8.5. **Appropriate Assessment**

Having regard to the nature and small scale of the proposed development and the distance from the nearest 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.

9.0 **Recommendation**

- 9.1. I recommend that planning permission should be granted, subject to conditions as set out below.

10.0 **Reasons and Considerations**

- 10.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature of the proposed development and its proximity to end users, it is considered that subject to compliance with the conditions set out below, the proposed development for a

temporary period would not constitute an inefficient use of finite urban land, would not seriously injure the amenities of the area or property in the vicinity and would be in accordance with the Z4 zoning objective of the Dublin City Development Plan 2016-2022. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 14th day of July 2020 and by the further plans and particulars received by An Bord Pleanála on the 28th day of August, 2020, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. This permission is for a period of three years from the date of this order. At the end of this period the garage shall be removed and the use of the site for parking shall cease unless, prior to the end of the period, planning permission shall have been granted for retention for a further period.

Reason: To allow for a review of the development having regard to the circumstances then pertaining and in the interest of proper planning and sustainable development.

3. The use of the premises is for parking only, ancillary to the current commercial uses of the properties located at 7-9 Shamrock Villas (A Gym) and 10 Shamrock Villas (Metal Fabrication). There shall be no commercial operations of either business or any other business (including commercial car washing or valeting etc) from the garage hereby permitted.

Reason: In the interest of clarity and orderly development.

4. There shall be no water supply to and wastewater drainage arrangements from the garage. The disposal of surface water shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of clarity, orderly development and public health.

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: In order to safeguard the [residential] amenities of property in the vicinity.

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

7. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided or intended to be provided by or on behalf of the Authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid within three months of the date of this order in such phased payments as the Planning Authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the

application of the terms of the Scheme shall be agreed between the Planning Authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Adrian Ormsby
Planning Inspector

23rd November 2020