



An
Bord
Pleanála

Inspector's Report ABP 308098-20.

Development	Demolition of detached dwelling and construction of four, four storey three bed townhouse with internalised parking spaces and private amenity spaces, removal of existing vehicular and pedestrian entrances on Charleston Road and Charleston Avenue and creation of new vehicular and pedestrian entrance on Charleston Avenue and site works.
Location	No 56 Charleston Rd and front No 57 Charleston Road. Dublin 6.
Planning Authority	Dublin City Council
P. A. Reg. Ref.	2573/20
Applicant	Brendam Ltd.
Type of Application	Permission.
Decision	Grant Permission
Type of Appeal	Third Party X Grant
Appellant	Philip O'Reilly
Date of Site Inspection	14 th December, 2020.
Inspector	Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The application site is located at the corner of Charleston Road and Charleston Road in Ranelagh has a stated area of 1,048 square metres and is that of a detached house at No 56 Charleston Road and part of the front curtilage of No 57 Charleston Road. To the south at No 57 Charleston Road a redevelopment was nearing completion at the building at No 57 Charleston Road. Some mature trees were located on the inner side of the frontage along Charleston Avenue and the corner at Charleston Road. At the time of inspection, hoarding had been erected along the site frontages and some interventions to the boundary walling had been undertaken. To the east Nos 46-55 Charleston Road are semi-detached two storey over garden level brick faced houses and to the west on the corner site opposite side of Charleston Avenue is nineteenth century Methodist Church and Grounds.
- 1.2. There is a concurrent application for development at the adjoining property, No. 57 Charleston Road for change of use from office to residential use as a dwelling, alterations including some demolition works, refurbishments a new entrance and landscaped gardens, a carport and drainage arrangements.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for the demolition of the detached house on the site.

construction of a terrace of four, four storey three bed townhouses each with an internalised parking space. Private open space for each dwelling in the comprising rear, private amenity space (circa 25-30 square metres in area) an upper ground floor terrace at the front (12 square metres in area) and second floor terraces to the front (10.7 square metres in floor area).

The vehicular and pedestrian entrances onto Charleston Road and the vehicular entrance on Charleston Avenue re to be removed and a new vehicular and pedestrian entrance is to be opened on the Charleston Avenue frontage.

A request for additional information was issued to the applicant on 23rd July, 2020 regarding concerns about overshadowing of the adjoining property at No 55

Charleston Road, overlooking, an existing tree proposed for removal and the proposed entrance arrangements to which a response was lodged with the planning authority on 22nd July, 2020. It included a sunlight and daylight analysis and proposals for alterations to the rear terrace for the unit adjacent to No 55 Charleston Road, an arboriculturist's condition study for the existing tree and use of the existing entrance location on Charleston Road and alterations to boundary treatment to facilitate visibility on at the junction.

3.0 **Planning Authority Decision**

3.1. **Decision**

By order dated, 18th August, 2020, the planning authority decided to grant permission for the proposed development subject to conditions of a standard nature which include requirements for preparation of a landscaping plan, to be implemented within the first planting season following competition under Condition No 7.

3.2. **Planning Authority Reports**

- 3.2.1. The **planning officer** in his initial report indicated acceptance in principle of the proposed development subject to resolution of issues relating to overshadowing, an existing tree and overlooking in respect of which the additional information request was issued. The supplementary report indicated satisfaction with the proposals within the further information submission and a grant of permission was recommended.
- 3.2.2. In the initial report of the **Transportation Planning Division** concerns were raised with regard to the proposed location close to the junction on the site frontage of the entrance to serve the development and the additional information was requested in this regard. The supplementary report on the further information submission indicated satisfaction with the proposal to provide an entrance, 3.6 metres in width close the location of the existing entrance on Charleston Road.
- 3.2.3. The report of the **Drainage Division** indicates no objection subject to conditions.

3.3. **Third Party Observations**

3.4. Several submissions were lodged with the planning authority with objections in which issues of concern include:

Demolition of the existing building is not justified – due to architectural merit and the Z2 zoning objective.

Overbearing impact on adjoining properties and excessive scale, mass height and design resulting in adverse visual impact on the streetscape.

Excessive density.

Impact on traffic volumes along Charleston Road.

Overlooking and, obstruction of daylight access and overshadowing ad adjoining properties.

Insufficient open space provision.

Potential for flooding risk – the water table in the area is high and basement construction is a particular concern.

One submission in support of the proposed development was also lodged with the planning authority.

4.0 **Planning History**

There is no record of planning history for the application stie.

5.0 **Policy Context**

5.1. **Development Plan**

5.2. The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site comes within an area subject to the zoning objective Z2: *to protect and/or improve the amenities of residential conservation areas.*

5.3. Buildings on Charleston Road and the surrounding local road network are included on the record of protected structures. The Victorian houses which are characteristic

of most of the surrounding street network are also included on the record of protected structures.

Policy CHC4 provides for protection of the special interest and character of Dublin's Conservation Areas. Guidance is set out in section 11.1.5.4 according to which there is a request that development contribute positively to the character and distinctiveness of the conservation area and that development should take opportunities to protect and enhance the special appearance of the area and its setting in so far as is possible.

Policy objective SC13 provides for the promotion of Sustainable densities along public transport corridors near services and facilities which enhance urban form and the spatial structure and are appropriate to the context.

Policy objective QH 8 provides for favourable consideration of higher density development on vacant and underutilised sites which respects the urban design and established character of development in the area.

Development management standards are in chapter 16. Residential quality standards are in section 16.10.2 and 16.10.3, Standards for garden and corner sites are set out in section 16 10.9

Criteria for basement level development in and, in close proximity to Z2 zoned lands are set out in section 16.10.15 according to which it is the policy of the planning authority to discourage significant underground development and excavation work basements and, extensions to existing basement development, adjacent to residential properties in conservation areas and/or included on the record of protected structures. Basement development in Flood Zone A or B areas is not permissible according to Policy SI13

5.4. Strategic Guidance.

Relevant statutory guidance issued under Section 28 of the Planning and Development Act, 2000 as amended are:

'Guidelines for Planning Authorities: Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual', DOEHLG, 2009.

'Design Manual for Urban Roads and Streets' 2012 (DMURS)

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was lodged by Philip O'Reilly on his own behalf on 4th September, 2020.

- The existing house should not be demolished, its conservation and preservation should be a priority and it can be refurbished and extended given the zoning objective and surrounding protected structures. The architectural character is rare and of heritage value. It is a structurally sound house worthy of being included on the record of protected structures. It is of a unique and of special interest in complementing and making its own statement at the location at the end of the row of semi-detached Edwardian houses.
- Development of four townhouses on the restricted site size is excessive and out of place for the area in which, with one exception, there are no four storey houses.
- The Swan River now culverted is a source of flooding to basements in the area so new houses over basements should not be constructed.

6.2. Applicant Response

6.2.1. A submission was received from the applicant's agent on 5th October, 2020. It contains a description of the proposed development an account of the planning history and the context and the application process along with drawings and photographs. According to the submission:

- the appeal is vexatious in that the motivation for its lodgement is to delay development. It is requested that it be dismissed having regard to section 138 (1) of the Planning and Development Act, 2000 (as amended).

There is precedent for the proposal which can be taken from previously permitted developments details of which follow: -

the permitted development at The Rectory, Purser Gardens, Rathmines under P. A. Reg. Ref 3939/19 which provided for demolition of a rectory building, ancillary buildings, the entrance and boundary

treatment and construction of nine dwellings with a new entrance comprising a new rectory and apartments.

the permitted development at No 65 Ranelagh Road, under P. A. Reg. Ref 2432/17 which provided for demolition of a building in eight bed sit units and construction of three two storey over half basement townhouses with relocation of the vehicular entrance, parking, boundary treatment and landscaping.

the permitted development at No 726 Howth Road, under P. A. Reg. Ref 3910/15 which provided for demolition of two houses and construction of sixteen two and three storey with dormer houses along with new boundary treatment, internal roadways and landscaping.

the permitted development at No 570 Howth Road under P. A. Reg. Ref 2432/17 whereby the planning authority decision to refuse permission was overturned following appeal. The permitted development provided for five houses at a density of thirty units per hectare. Extracts from the inspector's report in which reference is made to the statutory guidance issued under section 28 of the Act: *Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, 2009* in arriving at the view that overdevelopment was not an issue of concern.

- The rationale for the proposed demolition is based on grounds that the building is vacant, is a later addition that is of little architectural merit, is out of character with existing development and, is not included on the record of protected structures or within an Architectural Conservation Area. The concerns of the planning authority were addressed. The conservation officer agreed to the proposed demolition subject to high quality design appropriate to the area.

It was also agreed that the current proposal could be supported in conjunction with the concurrent proposal (permitted under P.A. Reg. Ref. 2470/20) at No 57 Charleston Road. The proposed development is sensitive in design to the

surrounding area and is setback from the frontage contributing positively to the streetscape. (Some details based on review of OS Maps and Griffin Valuation maps of the development at Charleston Road and about the existing house are provided in Appendix A of the submission.)

- The proposal is not overdevelopment and is a well-designed infill providing for optimum use of the site and consistency with national policy for encouragement of efficient land use. In this regard, reference is made to:

'Project Ireland, 2040 National Planning Framework' and specifically Policy Objective 3a, 3b and 35 regarding encouragement of increased density within the built up footprints of the cities; to section 4.9 and 5.9 of the *Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, 2009* regarding design and sustainable use of land and the CDP objective QH5, QH7 and QH8 regarding generation and redevelopment of vacant and under-utilised sites, sustainable and high quality urban design that is compatible with the surrounding area.

The plot ratio at 1.23 which is within the indicative range of 0.5-2.0 according to section 16.5 of the CDP and site coverage at 42% which accords with the indicative ratio of 45% for Z2 zoned lands and which was accepted by the planning officer.

Private open space provision which only falls slightly short of the standard of 10 per cent per bedspace according to the CDP but which was accepted by the planning officer, modifications at Unit 1 having been made to address overlooking and overshadowing concerns.

Communal open space provision at ninety-six square metres which complements the private open space and increases the amenities of the development.

Parking provision at one space per dwelling which is consistent with the standards for Area 2 in the carparking standards in Section 16.1 and Table 16.1 of the CDP.

- With regard to the contention as to basement development being unsuitable because of flooding risk:

there are no watercourses close to the site according to the OPW website (Floodmaps.ie)

there is no known history at the site location of flooding

the location is within a Flood Zone C area where flooding is least likely to occur, at less than 0.1% annually (1 in 1000 years) as confirmed in the SFRA in the CDP and,

the Drainage Division has indicated in its report that the proposed development is acceptable subject to conditions.

6.3. **Planning Authority Response**

There is no submission on file from the planning authority.

7.0 **Assessment**

7.1. The issues central to the determination of the decision and considered below are:

Validity of the appeal.

Development in Principle – Architectural Heritage Merit - Justification for Proposed Demolition of existing building.

Layout, Design, Form Height and Mass.

Residential qualitative standards: internal layout, private open space.

Residential amenities of adjoining properties

Flooding risk and basement construction

Traffic and parking.

Environmental Impact Assessment Screening.

Appropriate Assessment Screening

7.2. **Validity of the appeal.**

7.2.1. Further to review of the appeal, it is considered that the grounds are substantive, that as such it is valid and, that the contentions as to vexatiousness should be rejected.

7.3. Development in Principle – Architectural Heritage Merit - Justification for Proposed Demolition of existing building.

- 7.3.1. It is agreed that the existing dwelling, which would appear to date from the earlier twentieth century has special interest in making its own statement at the location at the end of the row of semi-detached Edwardian houses but there is no evidence as to the degree to which it is of special merit. With regard to the special interests of the existing building, the documentation on file does not include a conservation assessment report or a report by the planning authority's conservation officer and as such there is some lack of clarity as to the architectural heritage merits and condition of the existing structure. As such, the architectural heritage merits particularly with regard to the claim that the architectural character is rare or established and this gives rise to some concern as to it being satisfactorily demonstrated that demolition is justified. Although the planning officer has accepted the proposal, it is considered that there is a strong likelihood that it is suitable for sensitive repair, upgrade, adaptation if required and refurbishment. The option for assessment of the special merits of the building and the feasibility of its incorporation within a development proposal for the site has not been fully considered.

7.4. Layout, Design, Form Height and Mass.

- 7.4.1. The proposed terrace of townhouses is considerably greater in site coverage, mass and eaves height, relative to the existing house and to the adjoining terraced houses Nos 46 -55 Charleston Road. However, contrary to the appeal and objections lodged at application stage, the proposal is not considered excessive and negative in design and visual impact on the surrounding areas. Given the site configuration and the location at the end of Nos 46 -55 Charleston Road it is considered that the subject corner site can accept a contrasting, high quality, high density development including a footprint stepped forward of the established front building line. The proposed development setback from the street frontage behind front gardens is visually compatible within the streetscape and in relation to the surrounding historic architectural character and accords with the 'Z2' conservation area objective. As recommended in the planning officer report, if permission is granted that applicant should be required to provide for replacement planting for trees to be removed.

7.5. Residential qualitative standards: internal layout, private open space.

7.5.1. The dwellings are large four bed dwellings, extensive living space in at lower ground and ground levels, dual aspects and range of private open space options for each dwelling comprising terraces, private and communal landscaped amenity space at the front. The planning officer has established consistency with the qualitative standards with the CDP. (section 16.10) The dwellings which are large, vertical in emphasis form provide for high quality amenity potential for the future occupants and, can be accommodated within the site and as such no issues concern arise with regard to the stated site coverage at 41%, the plot ratio stated to be 1.23.1 and as such it is considered that the development as proposed is not overdevelopment for the site and accords with national and local policy for higher density development on underutilised sites as provided for under Policy QH8 of the CDP.

7.6. Residential amenities of adjoining properties.

7.6.1. The four dwellings proposed including No 4, the dwelling at the eastern end of the proposed terrace, has a deeper footprint towards the rear of the site, a reduction in separation distance from the boundary with the adjoining property at No 55, which is extended to the rear, and an increase in parapet height. Notwithstanding the considerable sized blank east facing elevation, to the parapet height, having regard to the site layout and building form of the property at No 55, it is considered that, with the incorporation of the modifications for the terrace proposed in the further information submission, no undue adverse impact on the residential amenities of the adjoining property at No 55 by reason of overbearing impact, overshadowing or overlooking would arise. It is demonstrated in the shadow study that the additional overshadowing that would occur is within the standards recommended in BRE guidance "*Site Layout Planning for Daylight and Sunlight*": BRE 209,

7.6.2. It is noted the measures to mitigate overlooking potential are incorporated within the permitted development nearing completion at No 57, Charleston Road, the adjoining property at the southern side of the site, part of the original front garden of which comes within the application site. With the reduction in size and modifications to the terrace to include omission of a glazed door at the rear of unit No 1, as proposed in the further information submission, it is considered that no issues of undue concern would arise having regard to the inner suburban location.

7.7. Flooding Risk and Basement Construction.

- 7.7.1. A comprehensive flood risk assessment report was submitted along with a basement impact assessment study in the application which have been reviewed. The proposed alterations involve a modest alteration to the existing in ground levels, with the depth of the new construction below ground level to range between 320 mm and 900 mm. The claim that the development constitutes a garden or lower ground level as opposed to a basement is considered reasonable in so far as the level is not entirely below ground level.
- 7.7.2. It is established that there is low to moderate vulnerability for the ground water within the area of the site location which is within Flood Zone C. It is considered that it is satisfactorily demonstrated in the study that coastal, fluvial and, with mitigation incorporated in the design, in the case of pluvial flooding, flooding risk is not at issue in the case of the site location and the current proposal incorporating a basement element that will be tanked and the proposed finished floor levels at 300 mm above ground level. Having regard to the assessments within the applicant's submissions. and the observations of the drainage Division's report, it is considered that no flooding risk issues arise.
- 7.7.3. Basement construction is not encouraged within areas having regard to Policy SC113 and section 16.10.15 of the CDP, the location being within Z2 zoned lands and surrounded by structures included on the record of protected structures. However, the current proposal is considered acceptable having regard to the claim that the level is not fully a basement and is not entirely below ground level, and the flooding risk assessment details and mitigation measures incorporated within the application as discussed above.

7.8. Traffic and parking.

- 7.8.1. The proposed provision of one on-site parking space per dwelling is both consistent with the standards in Table 16.1 of the CDP for Area 2 and considered appropriate for the development. Generation of additional demand for on street parking in the area, all of which is 'pay and display' would not be significant and, the proposed development itself does not necessitate a reduction in the supply.
- 7.8.2. There is no dispute that the development of four town houses will result in additional traffic generation and turning movements which are somewhat undesirable but given

the inner urban location and strategic policy for consolidation of development and maximisation of development potential, and the revised proposals with regard to the entrance location which meets with the Transportation and Planning Division's recommendations there is no objection.

7.8.3. **Environmental Impact Assessment Screening.**

7.8.4. Having regard to the nature of the proposed development and its location in a serviced inner suburban area in the city, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.9. **Appropriate Assessment Screening.**

7.9.1. Having regard to the location and to the nature of the proposed development in a serviced inner suburban area in the city, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

Given the foregoing, there is some reservation as to the justification for the demolition of the existing building and lack of survey and assessment as to possible special architectural heritage interest and its condition, and, therefore as to whether consideration of the option of retention and incorporation in a development proposal is warranted. It would be open to the Board and recommended to it that a section 131 request be issued in this regard prior to determination of a decision. In all other respects the proposed development is considered to be acceptable and draft reasons and consideration for a grant of permission and conditions follow.

9.0 **Reasons and Considerations**

Having regard to:

- the Dublin City Development Plan 2016-2022 according to which the site is within an area subject to the zoning objective Z2: *to protect and/or improve*

the amenities of residential conservation areas, and to Policy Objective, QH 8 therein which provides for higher density development the design of which respects the character of surrounding development on vacant or under-utilised sites.

- the scope for delivery of compact sustainable urban infill residential development in the city as prescribed in current national policy and strategic guidance.
- The corner site location, size and configuration and the established pattern and character of development in the vicinity.

It is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities, the context and historic architectural character of existing development within the area, the residential amenities of the area and those of the future occupants of the would be acceptable in terms of pedestrian and traffic safety and convenience, would not be prejudicial to public health by reason of flooding risk and, would 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 lodged on 22nd July, 2020 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 construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the

development, including construction traffic routing and management, construction parking, materials storage, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

3. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

4. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

5. Prior to the commencement of the development, the applicant shall submit and agree with the planning authority, a fully detailed landscaping scheme to include full details of size, species and location for all trees to be planted and full details of the proposed arrangements for hard and soft landscaping and boundary treatment. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works. Any trees and plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenities.

Reason: In the interest of residential and visual amenities.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

- 10 The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

7. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place at roof level, including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorized by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

8. Proposals for a name and numbering scheme and associated signage for the proposed development shall be submitted to and, agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of urban legibility.

9. A plan containing details for the management of waste, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste, especially recyclable materials, in the interest of protecting the environment.

10. 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 prior to commencement of development or 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.

Jane Dennehy
Senior Planning Inspector
30th December, 2020.