



An
Bord
Pleanála

Inspector's Report ABP 308239 - 20

Development

Widening of vehicular entrance and construction of new gate pier.
Construction of storage workshop with rooflights and solar panels and a new pedestrian entrance and gates at rear of property

Location

17 Highfield Road, Rathgar, Dublin 6.

Planning Authority

Dublin City Council,

P. A. Reg. Ref.

2993/20

Applicant

Chris Dardis

Type of Application

Permission

Decision

Grant Permission.

Type of Appeal

Third Party

Appellant

Richview Management DAC.

Date of Site Inspection

23rd December, 2020 and 12th
January, 2021.

Inspector

Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The application site has a stated area of 1,459 square metres and is that of No 17 Highfield Road, a two storey over garden level, semi-detached period house in multiple occupancy with front curtilage parking in a gravel surfaced front curtilage surrounded by shrub planting. There is an ungated vehicular access in the front boundary. It was noted during the inspection that one gate pier and its capping is intact whereas the other has been partially removed and its capping altered providing for a widened entrance. There is a single broken white line along the centre and double unbroken yellow lines along the carriageway adjacent to the foot path.
- 1.2. To the rear there is a deep rear garden extending to a depth of circa forty metres as far as the boundary with a private lane off Oaklands Crescent way which serves residential development to the south and a row of twelve garages. A removable bollard has been erected at the centre of the laneway. The boundary wall comprises is in brick construction of brick facing over above rubble stone walling. Rubble stones are located along both side boundaries of the rear garden. To the east side are the rear gardens of No 16 Highfield Road and glasshouses and sheds associated with horticulture.
- 1.3. The lodged plans show the layout of the interior of the house subdivided into twelve one room dwelling units.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals (a) for widening of the vehicular entrance at the Highfield Road frontage including construction of a new a gate pier along with some soft landscaping on the inner side of the front boundary and (b), construction of a storage/workshop in a stone finish with a metal roof in the rear garden with access from the rear boundary. The stated floor area is forty square metres and the height is stated to be 4.2 metres. The footprint is an a slightly irregular rectangular shape with a depth of circa ten metres and width of circa 4655 mm. Double doors are shown for both the wet and north elevations and also included is solar panels and rooflights in the roof slope.

2.2. The plans also landscaping within the front curtilage and show a double gated entrance in the rear boundary and the front entrance widened to a width of 3.6 metres.

3.0 **Planning Authority Decision**

3.1. **Decision**

By order dated, 25th August, 2020 the planning officer decided to grant permission for the development and included under Condition No 2 among the standard conditions is (a) a requirement for reduction in width of the proposed rear entrance to 1.5 metres and (b) for omission of the proposed widening of the entrance onto Highfield Road for reasons of conservation interest and visual amenity and public safety, A compliance submission is required.

3.2. **Planning Authority Reports**

3.2.1. The report of the planning officer notes:

- Details on the lodged plans indicating widening of the entrance on the front boundary. A condition is recommended for a maximum width of 2.6 metres in accordance with CDP standards in section 16.10.18 and the recommendations of the Transportation Division.
- Details on the lodged plans showing a vehicular entrance suitable for vehicular access on the rear boundary although pedestrian access is indicated in the descriptions, issues relating to conservation methodology for the proposed opening in the boundary and, acceptance of the proposed structure as compatible with surrounding development given the size of the rear garden.
- An email communication from the conservation officer to the planning officer in which reference is made to section 16.10.18 of the CDP and the transportation planning division indicated the recommendation for the reduction in width for the entrance onto Highfield Road. The Transportation Planning division also recommended reduction in width for the rear access.

- 3.2.2. One third party objection was received, from the appellant party indicating objections to interventions to the boundary wall, concerns about architectural heritage protection considerations, as to the right of way over the private lane and, as to demonstrable need for the proposed development.

4.0 Planning History

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

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Dublin City Development Plan 2016-2022 according to which site is within an area subject to the zoning objective Z2: “To protect, provide and / or improve the amenities of residential conservation areas.”
- 5.1.2. No 17 Highfield Road is included on the record of protected structures.
- 5.1.3. According to Policy Objective CHC2 there are requirements:

“To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

- a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest.*
- b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances*
- c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.*
- d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure.”*

- 5.1.4. Development management standards area in chapter 16. According to section 16.2.2.4 it is the policy of the planning authority to ensure that no loss or insensitive alteration to boundary wall or railings take place and where appropriate that boundary features be reinstated.
- 5.1.5. According to section 16.10.18 the width for entrances to protected structures, inclusive of pedestrian access should not exceed 2.6 metres. Front curtilage parking is not normally acceptable and where it is considered, several criteria which ensure that every effort has been made to protection of integrity of the structure and its special interest and character is demonstrated.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was received from Marston Planning on 22nd September, 2020 on behalf of the appellant, Richview Management DAC, 21 Oaklands Crescent according to which:
- The proposed development would have negative impact on the setting and character of the protected structure, (the existing house) on the site at No 17 Highfield Road. An architectural heritage impact assessment should have been submitted given the extent of statutory protection for protected structures which includes the attendant ground and features within it. The rear boundary wall is part of the original boundary. The creation of an entrance pedestrian or otherwise, negatively impacts on the setting of the protected structure and is contrary to Policy CHC 2 of the CDP.
 - There is no right of way over the private lane for access for the applicant's property as proposed on the rear boundary or for the existing access created on the rear boundary of No 18 Highfield Road and there is no evidence of consent to establish a right of way by the applicant and residents of Oaklands Crescent. The property at No 18 Highfield Road has an entrance onto the laneway which is not authorised and the boundary wall for this property is of relatively recent construction in breeze block. The applicant should withdraw the application.

- The restrictions required under Condition No 2 of the decision to grant permission are welcome but issue as to lack of a right of access of the laneway still stand.
- There is no justification for a shed on the site given that the house is subdivided into twelve dwelling units with it being unclear as to whether the applicant is resident at the property. No reason for the need for the shed has been provided for the shed especially given the size and height and the floor plan lacks detail.
- The existing front entrance has been altered providing for its current width. The proposals for the front curtilage are contrary to section 16.10.18 of the CDP regarding parking in the curtilage of front gardens as it would negatively impact on the setting of the protected structure.

6.2. Applicant Response

There is no submission on file from the applicant.

6.3. Planning Authority Response

There is no submission from the planning authority on file.

7.0 Assessment

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

- Entitlement to access onto the lane off Orchard Crescent at the rear of the site.
- Scale and Nature of use of the Proposed workshop/shed.
- Architectural Heritage Protection – Proposed workshop shed and access in the rear boundary.
- Architectural heritage protection - Proposed widening of front entrance.
- Environmental Impact Assessment Screening.
- Appropriate Assessment Screening.

7.2. Entitlement to access onto the lane off Orchard Crescent at the rear of the site.

- 7.2.1. The appellant contends that the applicant has no right of way or consent to use of the lane and that such consent would not be forthcoming from the Appellant Party. There is no documentary evidence as to the claim of control over the laneway included in the Appeal and similarly, there is no evidence of the applicant's entitlement to rear access. On review of the conservation statement included with the application by the applicant's agent, it is noted that the lane adjoining the rear boundaries of Nos 17 – 21 Highfield Road was not in existence, post construction of the houses, based on examination of the OS maps 1897-1913. As such it is reasonable to assume that it was not constructed as a rear service lane for the dwellings, and presumably it was intended for different purpose when it was constructed.
- 7.2.2. The appellant party's agent has not included any documentary evidence as to the status of the lane and control over it. In the event of possible favourable consideration of the proposed development it is of note that the as provided for under section 34 (13) of the Planning and Development Act, 2000 as amended, a prior grant of planning permission is not an entitlement to implement a development and, issues as to entitlement to access over the private laneway could be resolved through the legal system.

7.3. Scale and Nature of use of the Proposed workshop/shed.

- 7.3.1. The proposed location of the workshop /shed is in the rear garden of a dwelling house. Notwithstanding the considerable size of the plot and the main dwelling, the proposed shed, a detached structure is relatively large in size which is more representative of a commercial or light industrial use as opposed for use ancillary to the residential use of a main dwelling which in this case is a dwelling subdivided into multiple (pre-1963) units and it is noted that separate independent access via the rear boundary is also sought. There is a lack of clarity in the information available about the proposed development in this regard, as contended in the appeal. There is a note, "*(Address to be supplied at the end of the is form (Question 27))*" on the planning application form under item 3 – "Full name of Applicant" but no such information is available elsewhere on the application form. As such it is information as to whether the applicant himself resides at the dwelling on the site and intends to

use the proposed shed for purposes ancillary to his own residential use of the dwelling or whether the proposed shed is intended for use by another resident at the dwelling or it has some other intended purpose is not available. It therefore appears would appear that insufficient details are available within the application having regard to article 22, (1) (b) (i) of the Planning and Development Regulations 2001 as amended according to the content of a planning application should include the *“name, address of the applicant.....”*

7.4. Architectural Heritage Protection – Proposed workshop shed and access in the rear boundary.

7.4.1. It is agreed with the planning officer that given the size and configuration of the rear garden, the site has the capacity for insertion of a workshop/shed structure at the lower end of the rear garden without adverse impact on the integrity, architectural character and context of the protected structure or adjoining protected structure and the 'Z2' residential conservation area zoned lands. As regards the proposed opening in the rear boundary to provide for a rear entrance, historic fabric in the form of rubblestone walling with brick construction above is intact although in need of repair. Setting aside the issue as to rights of access over the lane, the length along the boundary directly on the lane frontage is limited. A condition similar to that included under Condition 2 attached to the planning authority decision can be included limiting the width of the opening rendering it suitable for pedestrian access only. An additional requirement can be included for repair, making good and salvage of materials as well as design details. These issues can be addressed by compliance with a condition if permission is granted.

7.4.2. Architectural heritage protection - Proposed widening of front entrance.

7.4.3. The existing entrance has previously been altered and widened as noted during the course of the inspection resulting in damage and removal of fabric at one gate pier. In the event that permission is granted for widening of the entrance, it is recommended, given the designation of the subject and adjoining sites as protected structure and the location within the 'Z2' zoned residential conservation area lands and the existing condition of the entrance, that it should be satisfactorily demonstrated the proposed works in design, materials and workmanship accord with

specialist conservation practice. The concerns expressed in the appeal with regard to the presentation the front boundary and curtilage in this regard is supported.

- 7.4.4. It is also agreed that instead of an additional increase in width – to 3.6 metres for the entrance, the applicant should be required as recommended in the Transportation Planning division’s report and the planning officer’s report further to advice from the conservation officer the width should be confined to a maximum of 3.3 metres, notwithstanding the multiple occupancy of the dwelling. There is no objection to the landscaping proposals shown for the front curtilage which are considered relatively minor.

7.5. Environmental Impact Assessment Screening.

- 7.5.1. Having regard to the minor nature and scale of the development proposed and its inner urban location in an area 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.

7.6. Appropriate Assessment.

- 7.6.1. Having regard to the location of the site which is on serviced land in an inner urban area and, to the nature and scale of the proposed development, 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

- 8.1. In view of the foregoing, it is recommended that permission be refused based on the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the size and design for the proposed workshop/shed, and the proposed position within the rear garden of a residential property located within an area subject to the zoning objective: Z2: “*To protect, provide and / or improve the amenities of residential conservation areas*” according to the Dublin City

Development Plan, 2016-2022, the Board is not satisfied based on the information available in the documentation available in connection with the application and the appeal that the proposed workshop/shed would conform to use ancillary to the residential use of the dwelling on the site, would not seriously injure the amenities of residential properties in the area and, would be in accordance with the proper planning and sustainable development of area.

Jane Dennehy
Senior Planning Inspector
15th January, 2021.