



Development

The development consists of providing a new vehicular entrance 4m wide to Westminster Road, a dished footpath with new pillars and gates, and all associated site and boundary works.

Location

Oaktree Lodge, Westminster Road, Foxrock, Dublin 18. An Architectural Conservation Area.

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D21A/0558

Applicant(s)

Jeananne O'Brien and Barry McAuliffe

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Jeananne O'Brien and Barry McAuliffe

Observer(s)

None

Date of Site Inspection

21st July 2022

Inspector

Brendan Coyne

1.0 Site Location and Description

1.1. The site (0.11 ha) is located on the southern side of Westminster Road in Foxrock, Dublin 18. The site contains a 1.5 storey 4-bedroom semi-detached dwelling known as Oaktree Lodge. The dwelling was formally part of a school, which was split into two residential units, one of which is the appeal site. The dwelling is setback from the public road and is currently accessed via a right of way from the vehicular access serving the adjoining dwelling to the west, Cois Carraige. The roadside boundary of the site is defined by hedging c. 2m high and an area of indented car parking (c. 84m long) along the road carriageway. Westminster Road is subject to a speed limit of 50km/h. Foxrock Village is located c. 60m to the west of the site.

2.0 Proposed Development

2.1.1. Permission sought for the following;

- The provision of a new 4m wide vehicular entrance to Westminster Road,
- New 2m high pillars and gates,
- A dished footpath for vehicular access,
- Closure of the existing vehicular access along the western site boundary and its replacement with a new boundary fence to match existing.
- Associated site and boundary works.

2.2. The site is located within an Architectural Conservation Area.

3.0 Planning Authority Decision

3.1. Decision

Dun Laoghaire Rathdown County Council REFUSED permission for the proposed development. The reason for refusal was as follows;

1. The proposed development would endanger public safety as a result of its inability to achieve the required sight lines for a vehicular access due to the

location of parking spaces outside the site on Westminster Road. Furthermore, the vehicular access would set a precedent for similar development in the area, which would adversely affect the use of Westminster Road.

3.2. Planning Authority Reports

3.2.1. Planning Report

The basis for the Planning Authority's decision includes the following:

- The site is zoned objective 'A', which seeks 'To protect and/or improve residential amenity'. Residential development is permitted in principle under this zoning objective, which includes vehicle entrances.
- Vehicular entrances may be permitted where they are compatible with overall policies and objectives for the zone and would not have undesirable effects.
- The proposed pillars are in keeping with the existing pillars, which is acceptable.
- The Foxrock Architectural Conservation Area states that vehicular access requirements should not impinge on the existing landscape character.
- The dwelling is currently accessed via a driveway shared with Cois Carraige, located on an adjoining site to the west.
- It is proposed to install a new boundary fence along the western boundary of the site, which will close off the existing vehicular access.
- Section 8.2.3.4(I) of the Development Plan states that the maximum width of a vehicle entrance for a single dwelling is 3.5m. Therefore, the width of the proposed vehicular entrance at 4m does not accord with the Development Plan.
- Were it not for the substantive reasons for refusal as set out in the Transportation Section report, the width of the proposed vehicle entrance at 4m could be addressed by way of a request for further information, reducing the width to 3.5m in line with Development Plan requirements.
- There is existing on-street parking in front of the boundary of the dwelling.

- The Transportation Department notes that required sightlines at the proposed vehicular entrance cannot be achieved due to the presence of on-street parking.
- The Transportation Department recommend that the proposed development be refused permission on the basis that it would endanger public safety by reason of a traffic hazard or obstruction of road users.
- In conclusion, the Planning Authority has significant concerns regarding the ability of the proposed development to achieve the necessary sightlines from the proposed entrance due to the positioning of parking spaces on Westminster Road. On this basis, the Planning Authority recommends that the proposed development be refused permission.

3.2.2. Other Technical Reports

Transportation Planning Section

- As of March 2013, the Design Manual for Urban Roads and Streets (DMURS) is now used for urban roads, such as Westminster Rd, to provide guidance relating to required sightlines for vehicular accesses on such roads.
- The proposed new vehicle access is assessed in accordance with Section 4.4.5 of DMURS re. visibility splays.
- In accordance with DMURS, for a road with a speed limit of 50km/h, the required sight distance in both directions for exiting vehicles, from a setback of 2.4m from the edge of the carriageway at the proposed entrance, is 45.0m. In difficult circumstances, the setback may be reduced to 2.0m.
- A reduced sightline, appropriate to the traffic speed, will be accepted if the Applicant can demonstrate that the existing traffic speeds are lower than the speed limit by submitting a speed survey carried out by a company approved by the Planning Authority (Transportation Planning Section), of existing speeds at this location on Westminster Road, in accordance with guidance from DMURS or any other such relevant document (i.e. DMRB TA 22/81, the PIARC Road Safety Manual, etc).

- There is almost continuous indented parking along Westminster Road, Foxrock, for a length of c. 90 metres to the right of the proposed new vehicular access.
- The Transportation Planning Section does not consider the required sightline distances can be achieved to the right of the proposed new access as they would be obstructed by parked cars.
- The indented parking along Westminster Road has been provided to serve/support Foxrock village businesses while leaving sufficient road width for opposing traffic streams to pass.
- Removing any of these on-street parking spaces would thereby add, to some small extent, to the obstruction of traffic by parked cars. Hence, the proposed new vehicular access is unacceptable and should not be permitted.
- The Transportation Department recommends that the proposed development be refused permission because it would endanger public safety by reason of traffic hazard or obstruction of road users, or otherwise.

4.0 Planning History

4.1.1. Subject Site

P.A. Ref. D12A/ 0036 - SPLIT DECISION in March 2012.

Permission GRANTED for proposed works comprising the part demolition of an existing single-storey extension (20 sq.m) to the side and rear, construction of a new two-storey extension (70 sq.m) with pitched roof to match existing and a dormer window to the rear and 3 No. new roof lights to the front of the house,

Permission REFUSED for the creation of a new 3.5m wide access entrance to Westminster Road. The reason for refusal was as follows;

1. The proposed vehicular entrance would result in the loss of an on-street car parking space serving Foxrock Village, adding to traffic congestion. In addition, inadequate sightlines would exist at the proposed vehicular entrance, especially to the east, due to the presence of parked cars. The proposed development would, therefore, endanger public safety by reason of traffic hazard or obstruction of road users or otherwise.

4.1.2. **Adjoining site to the West**

P.A. Ref. D13B/0251 Permission GRANTED in Oct. 2013 for the construction of a ground floor rear extension with a flat roof over, a porch extension to the front and a two-storey side extension with a hipped roof over, including a roof light to the side.

4.1.3. **Adjoining site to the East**

P.A. Ref. D06A/1238 Permission GRANTED in Oct. 2006 for proposed works comprising a single-storey extension to front, rear and sides of the existing semi-detached house, associated demolition work, part conversion of attic to bedroom/study, insertion of dormer window to rear, Velux windows to front and rear, solar panel to rear, creation of new access at side lane and ancillary related works.

5.0 **Policy and Context**

5.1. **Development Plan**

The Dún Laoghaire Rathdown County Council County Development Plan 2022-2028 is the statutory plan for the area.

Land Use Zoning: The site is zoned 'A' with the objective 'To provide residential development and improve residential amenity while protecting the existing residential amenities'.

Architectural Conservation Area: The site is located within an Architectural Conservation Area.

Section 12.3.4 Residential Development – General Requirements

Section 12.3.4.1 Road and Footpath Requirements

Section 12.4.8 Vehicular Entrances and Hardstanding Areas

Section 12.4.8.2 Visual and Physical Impacts

Section 12.4.8.1 General Specifications

Section 12.4.8.2 Visual and Physical Impacts

Section 12.4.8.3 Driveways/Hardstanding Areas

Section 12.4.8.4 ACAs/Protected Structures

Section 12.4.8.5 Financial Contribution

Section 12.8.7.2 Boundaries

Foxrock Architectural Conservation Area Character Appraisal

5.2. Natural Heritage Designations

5.2.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approx. 3.7km to the northeast of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approx. 3.7km to the northeast of the site.
- The Rockabill to Dalkey Island SAC (Site Code: 003000), approx. 6.2km to the east of the site.
- The Dalkey Islands SPA (Site Code: 004172), approx. 6.1km to the east of the site.

5.3. EIA Screening

Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal was received from the Applicants Jeananne O'Brien and Barry McAuliffe against the decision made by the Planning Authority to refuse permission for the proposed development. The main grounds of appeal are summarised as follows;

- The house was formerly a school split into two residential units many years ago.
- The adjoining house now uses the original school entrance onto a laneway off Westminster Rd.
- As the Applicant's house had no exit, a right of way was sought and granted across their neighbour's front garden, Cois Carraige, many years ago.
- The Applicants have a unique situation whereby they enter their neighbour's front garden to gain access to their house, as opposed to direct access from the road.
- The Applicants purchased their house in late 2011 when it was in poor condition. The Applicants sought permission to refurbish the house and provide a new entrance at the time.
- The entrance sought at this time was at the eastern end of the site and would have resulted in removing car parking spaces. This planning application was refused permission.
- The Applicants continued to use the shared entrance. However, for safety and practical reasons, the shared entrance no longer works for the Applicants. Consequently, the Applicants are seeking permission for the proposed new vehicular entrance.
- The Applicants have three young children coming and going from the house. They have concerns regarding the traffic volume in and out of the shared driveway and their children's safety.
- The Applicant's neighbours have three generations living in the adjoining house who drive cars. This raises concerns for the safety of the Applicant's children and visitors.

- The proposed new entrance would not only provide a safer entrance/exit but also reduce the potential for conflict with their neighbours due to the misuse of their driveway (e.g. delivery vans).
- The current situation is impractical with some delivery drivers using their neighbour's garden as a car park, not realising its private property.
- Outside the Applicant's house, there are four car parking spaces. As you exit, to the right was one space on its own, then a gap and space for three vehicles.
- In 2020 the Applicant's neighbour was in a minor traffic accident involving her elderly mother. Following this, the Applicant's neighbour requested the Council to remove the single car parking space as the line of sight was poor as cars approached from the east (to the right when exiting). The removal of this space was granted.
- There are now only three car parking spaces along the road carriageway to the front of the site.
- The applicants approached the Council about removing the 3 no. car parking spaces. The Traffic Section recommended that the on-street parking not be removed, as they provide a level of traffic calming.
- Following this, the Applicants decided to proceed with a planning application for a new entrance at a location which would not require the loss of any car parking spaces.
- The layout and design of the proposed new entrance would not require the removal of any trees.
- Throughout the process, the Applicants have consulted with their neighbours, who fully support the application. However, the Applicant's neighbour is also concerned about the volume of traffic going through the shared driveway and believes a new entrance is a safer, better and more practical option for all concerned.
- In conclusion, the Applicants believe the Board should overturn the Planning Authority's decision to refuse permission for the proposed new entrance for the following reasons.

- The safety of children and visitors to the Applicant's house and their neighbour's property.
- The proposal provides a far more practical solution for all concerned.
- The line of vision is not significantly different to what is already in use.
- The new entrance is further away from the main junction in Foxrock village.
- The proposed new entrance does not require removing any car parking space.
- The proposal does not require the removal of any tree.
- Precedent was granted for a new entrance to 'Hermitage' in 2018 located further to the east.
- There are conflicting views within the Council's Traffic Section report as to whether DMURS does or does not apply.

6.1.2. Appendixes attached with the appeal include the following:

- Council's notification of decision to refuse permission.
- Photographs showing the existing shared vehicular entrance and the location of the former car parking space, now removed, to the front of the site.
- Email correspondence with the Council's Traffic Section.
- The Council's Transportation Section report, under the subject application.
- Copy of a Board's decision under ABP Ref. 302035-18 granting permission on appeal for the relocation of a vehicular entrance, the blocking up of the existing gate and the provision of a new vehicular entrance onto Westminster Rad at 'Hermitage', Hainault Road, in Foxrock, Co. Dublin.

6.2. Planning Authority Response

6.2.1. The Planning Authority considers the grounds of appeal do not raise any new matter which would justify a change in its decision.

6.3. Observations

None

7.0 Assessment

- 7.1.1. I have reviewed the proposed development and the correspondence on the file. I am satisfied that the proposed development is acceptable in principle, in accordance with the zoning objective of the site. The main issue for consideration is the reason for refusal, as cited by the Planning Authority. This can be addressed under the heading 'Sightlines / Road Safety'. I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. The issue for consideration is addressed below.

7.2. Sightlines / Road Safety

- 7.2.1. The proposed development was refused permission on the grounds that the proposed new 4m wide vehicular entrance would endanger public safety by reasons of the inability to provide required sightlines (visibility splays) due to the location of parking spaces to the right/east of the proposed entrance along Westminster Road. The Planning Authority's reasons for refusal stated that such development would set a precedent for similar development in the area, which would adversely affect the use of Westminster Road.
- 7.2.2. The Council's Transportation Section report assessed the proposed development in accordance with Section 4.4.5 of the Design Manual for Urban Roads and Streets (DMURS) re. visibility splays. In accordance with DMURS, the report states that for a road with a speed limit of 50km/h, the required sight distance in both directions for exiting vehicles, from a setback of 2.4m from the edge of the carriageway at the proposed entrance, is 45.0m. In difficult circumstances, the setback may be reduced to 2.0m. Further to this, the Transportation Planning Section report states that a reduced sightline, appropriate to the traffic speed, will be acceptable if the Applicant can demonstrate that the existing traffic speeds are lower than the speed limit by submitting a speed survey carried out by a company approved by the Planning Authority of existing speeds at this location on Westminster Road, in accordance with guidance from DMURS or any other such relevant document (i.e. DMRB TA 22/81, the PIARC Road Safety Manual, etc).

7.2.3. The Transportation Planning Section report states that there is almost continuous indented parking along Westminster Road, for a length of c. 90 metres to the right of the proposed new vehicular access. Therefore, the Transportation Planning Section does not consider that the required sightline distances to the right for the proposed new access can be achieved because they would be obstructed by parked cars. The report states that these parking spaces serve and support Foxrock village businesses while leaving sufficient road width for opposing traffic streams to pass. Furthermore, the report states that removing any of these on-street parking spaces would add, to some small extent, to the obstruction of traffic by parked cars. Therefore the Transportation Planning Section consider the proposed new vehicular access unacceptable and should not be permitted.

7.2.4. The Applicant's grounds of appeal are detailed in Section 6.1 above. In summary, the Applicants consider the Board should overturn the Planning Authority's decision to refuse permission for the proposed new vehicular entrance for the following reasons;

- The safety of children and visitors to the Applicant's house and that of their neighbor's property.
- The proposal provides a more practical solution for all concerned than the existing shared vehicular entrance arrangement.
- The sightlines of the proposed new vehicular entrance are not significantly different from what is already used at the existing vehicular entrance.
- The new entrance is further away from the main junction in Foxrock village.
- The proposal does not require removing any car parking spaces or trees.
- Precedent has been granted for a similar new entrance to the dwelling known as 'Hermitage' further to the east along Westminster Road in 2018, as permitted by the Board under ABP Ref. 302035-18.
- There are conflicting views within the Council's Traffic Section report as to whether DMURS does or does not apply.

- 7.2.5. Section 12.4.8 of the Dun Laoghaire Rathdown County Council Development Plan 2022-2028 refers to 'Vehicular Entrances and Hardstanding Areas' and requires the following:

Vehicle entrances and exits shall be designed to avoid traffic hazard for pedestrians and passing traffic. Where a new entrance onto a public road is proposed, the Council will have regard to the road and footway layout, the traffic conditions on the road and available sightlines and will impose appropriate conditions in the interest of public safety. In general, for a single residential dwelling, the maximum width of an entrance is 3.5 metres.

And

Proper provision shall be made for sightlines at the exit from driveways in accordance with the requirements in DMURS, and as appropriate to the particular road type, and speed being accessed.

- 7.2.6. Section 4.4.5 and Table 4.2 of the Design Manual for Urban Roads and Bridges (DMURS) refer to Visibility Splays and Stopping Sight Distances (SSDs) and requires a setback 'X' distance of 2.4 metres and a 'Y' sightline distances of 45 metres at entrances in 50km/h urban zones. Westminster Road is located within a 50km/h urban zones.

- 7.2.7. Regarding reducing visibility splays, Section 4.4.5 states the following:

Designers may have concerns about reducing visibility splays at junctions that carry higher volumes of traffic at more moderate speeds. This issue was addressed further in respect of research carried for the UK Manual for Streets (2010). This included 'busy radial roads', many of which included bus routes within a variety of 20, 30 and 40 mph environments. The research concluded that there is no evidence that reduced SSDs are directly associated with increased collision risk, as shown on a variety of street types at a variety of speeds. The Manual for Streets (2010) also refers to research where it was found that higher cycle collision rates occurred at T-Junctions with greater visibility. The research concluded that this was because drivers were less cautious where greater visibility was provided.

And

Designers must also take a holistic view of the application of reduced forward visibility splays. As illustrated in the Adamstown Street Design Guide (2010), there are other place making and traffic calming benefits that can be implemented by reducing forward visibility splays at junctions (see Figure 4.64).

7.2.8. Section 2.1.2 of DMURS refers to 'Safety' and states the following:

Clearer sightlines and wide carriageways also allow for greater driver reaction time/error correction. Whilst this approach is sensible on isolated roads, within urban areas it can be counter productive as it may transfer risk to more vulnerable users. Research has found that:

- *The speed at which drivers travel is principally influenced by the characteristics of the street environment.*
- *If the design of a street creates the perception that it is safe to travel at higher speeds drivers will do so, even if this conflicts with the posted speed limit.*

By eliminating risk and promoting free-flowing conditions, drivers feel more inclined to drive at higher speeds.

7.2.9. Figure 4.4 of DMURS illustrates psychological and physical, or 'hard' and 'soft', measures that influence driver speeds and how these may be used to enhance place and manage movement. These include on-street parking and reduced visibility splays.

7.2.10. Having regard to the guidance set out in the Design Manual for Urban Streets and Roads (2019) regarding reduced visibility splays as detailed above and in consideration of (i) the location of the proposed new vehicular entrance directly adjoining the existing shared vehicular entrance, (ii) the visibility splays at the existing shared vehicular entrance which, like the proposed development, are obstructed by the indented car parking to the east along Westminster Road, (iii) the road and footway layout, and traffic conditions along Westminster Road and (iv) the absence of evidence that the proposed new entrance poses a risk to road users or pedestrian safety, I do not consider the proposed development should be refused permission. It is my view that the proposed new vehicular entrance would improve vehicular and pedestrian access to the existing dwelling and improve the residential amenity of the neighbouring dwelling, Cois Carraige e.g. unauthorised service delivery vehicles parking on their

private property etc. Having regard to the context of the site and the proposed development, I do not consider the proposal would create an undesirable precedent for similar development in the surrounding area, as stated by the Planning Authority. Notwithstanding this, I consider that in the event of a grant of permission, a Condition should be imposed restricting the width of the proposed vehicular entrance to a maximum width of 3.5 metres, in accordance with the requirements of Section 12.4.8 of the Dun Laoghaire Rathdown County Council Development Plan 2022-2028. This width would match that of the existing shared vehicular entrance, which is 3.5m wide. Given the adjacent indented car parking along Westminster Road and off-street parking within the subject site, a narrower vehicular entrance width is not required in this instance. The height and detailed design of the proposed new vehicular entrance gate and pillars (apart from the width of the gate) replicates the existing shared vehicular entrance to its side. As such, the proposal would not detract from the character or visual amenity of the Architectural Conservation Area in which it is located.

- 7.2.11. For the above reasons, I recommend that the Board grant permission for the proposed development, subject to appropriate Conditions.

7.3. Appropriate Assessment

- 7.3.1. Having regard to the nature and modest scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance and absence of a clear direct pathway to any 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.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to conditions, for the reasons and considerations below.

9.0 Reasons and Considerations

Having regard to the zoning of the site, the pattern of development in the vicinity of the site, the nature and extent of the proposed development, and the provisions of the Dun Laoghaire Rathdown County Council Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not set an undesirable precedent for similar developments in this architectural conservation area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(i) The vehicular entrance shall be a maximum of 3.5 metres wide.</p> <p>(ii) The footpath and kerb shall be dished and the new driveway constructed to the technical requirements of the Planning Authority.</p> <p>(iv) Any gates for the vehicular entrance shall open inwards and not out into the public domain.</p> <p>Reason: In the interest of traffic safety and the proper planning and development of the area.</p>

3.	<p>Drainage arrangements, for the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
4.	<p>The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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.</p> <p>Reason: In order to safeguard the residential amenities of adjoining property in the vicinity.</p>

Brendan Coyne
 Planning Inspector

21st July 2022