



An
Bord
Pleanála

Inspector's Report

ABP-311766-21

Development	PROTECTED STRUCTURE: Alterations to front of dwelling, retention of bin storage and removal of iron railings.
Location	55 Parnell Square West, Dublin 1
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3280/21
Applicant	Brian O'Kelly
Type of Application	Planning Permission & Retention Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant	Brian O'Kelly
Observers	None
Date of Site Inspection	5 th April 2022
Inspector	Margaret Commane

1.0 Site Location and Description

- 1.1. The site, at 55 Parnell Square West, Dublin 1, is located on the south-western side of Parnell Square West and has a stated site area of 103sqm. On site is a four-storey over basement Georgian Townhouse which is a Protected Structure (RPS No. 6414). This building is currently in use as student accommodation. The building adopts a c. 3 metre setback from the Parnell Square West street frontage, with pedestrian entrances to the building's ground floor and basement level provided within the intervening space, delineated by decorative iron railings, gates and stone plinths.
- 1.2. The immediate area along Parnell Square West, to the north-west and south-east of the site, comprises of similar substantial Georgian Townhouses (also Protected Structures) in residential and commercial uses. Similar to the subject site, these properties feature decorative iron railings, pedestrian gates and stone plinths within their front yards. To the north-east of the subject site, on the opposite side of Parnell Square West, is the Rotunda Hospital.

2.0 Proposed Development

- 2.1. Planning Permission and Retention Permission is sought for alterations to the front of No. 55 Parnell Square West, Dublin 1, a Protected Structure (RPS No. 6414), incorporating the following:
 - Retention of a bin storage platform and associated balustrade to the front of the property, immediately adjacent to the properties front door, measuring 1.8sqm in area.
 - Retention of the removal of a 1.7m section of wrought iron railings and associated stone plinth along the front door approach platform.
 - Planning permission to reinstate the original wrought iron railings, altered to form a set of swing gates, serving the bin storage platform.
- 2.2. The subject application relates to external alterations only, and does not propose any internal amendments.

3.0 Planning Authority Decision

3.1. Decision

On 28th September 2021, the Planning Authority decided to refuse the development sought under this application for the following stated reason:

1. *The proposed development, including retention works, involves significant alterations to the front entrance of the Protected Structure which would cause serious injury to the historic fabric, architectural detail, special architectural character and setting of the Protected Structure and the wider conservation area and would therefore contravene Section 11.1.5.1 CHC2 (a), (b), (d), Policy 11.1.5.4 CHC4 (1), (2), (4), (5) and Policy 16.10.18 of the Dublin City Council Development Plan 2016-2022 and Section 13.4.3 of the Architectural Heritage Protection Guidelines 2011.*

3.2. Planning Authority Reports

3.2.1. Planning Report

- The development seeks permission to retain the removal of a 1.7 m length of railings and associated granite plinth and the installation of a 7 sqm bin storage platform. The applicant has stated that the removed portion of railing has been saved and permission is sought to install this element into outward opening gates to enclose the bin storage area.
- The Planning and Conservation Sections of the Council have serious concerns in relation to the current application and the associated impact on the host property. The applicant, within the submitted Conservation Statement has recognised that the development as carried out has had an impact on the character of the host protected structure and the wider area. The Planning Authority does not however accept the contention of the applicant the repurposing of the removed railing as a gate would be compatible with the host property. The storage area facilitates the keeping of a large 1100 litre bin, which significantly detracts from the historic formal setting of the building.

- It is also noted that the applicant has, within the submission, referenced the need for the refuse storage facility to support the student accommodation use on site, however, this is not considered a reasonable justification. The development as consented under PL. Ref 2456/15 included a designated bin store at lower ground floor level and this space should be used as approved.
- The current application would not protect the architectural character of the building which individually represents an important 18th building, which is located within a largely intact terrace of townhouses. The subject development represents an ad hoc and incongruous building element, which detrimentally impacts on both the host property and the wider conservation area. Accordingly, the proposed development would be contrary to the Z8 Zoning Objective, would impact detrimentally on the character, setting and integrity of this important protected structure.
- Furthermore, having regard to the architectural significance of the building, the subject development use would represent an inappropriate intervention and would fail to support the stated aims Dublin City Council in relation to the regeneration and enhancement of the Parnell Square.
- Based on the submitted plans and having carried out a site visit, it is not considered that the subject development if permitted would detrimentally impact on the amenity of the adjoining properties.

3.2.2. **Other Technical Reports**

Drainage Division (23/09/21): No objection, subject to conditions.

Conservation Section (27/09/2021): Raised serious concerns in relation to the proposed development's impact on the Protected Structure and the wider Conservation Area, given the use of the applicable storage area for the keeping of a large 1100 litre bin, and recommended that the application be refused for the following reason:

'The proposed development which involves significant alterations to the front entrance of the Protected Structure would cause serious injury to the historic fabric, architectural detail, special architectural character and setting of the Protected Structure and the wider conservation area and would therefore contravene Section 11.1.5.1 CHC2 (a),

(b), (d), Policy 11.1.5.4 CHC4 (1), (2), (4), (5) and Policy 16.10.18 of the Dublin City Council Development Plan 2016- 2022 and Section 13.4.3 of the Architectural Heritage Protection Guidelines 2011.'

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland: No observations to make on the proposed development but asks that if the above application is successful a condition requiring payment of a Section 49 Levy (associated with light rail) be included, unless exempted.

3.4. **Third Party Observations**

No third-party observations were received by the Planning Authority during the consultation period for the application.

4.0 **Planning History**

4.1. **Subject Site**

4.1.1. The following previous application pertaining to the subject site are of relevance:

PA Reg. Ref. 2456/15 (*Appeal Reference PL29N.245354*)

This application related to a change of use from offices to student accommodation involving repairs to the fabric of the property; sub-division of accommodation to create new bedrooms and 7 no. new bathrooms; installation of a common kitchen; provision of gas fired central heating and rewiring.

Permission was refused by Dublin City Council in July 2015. The Planning Authorities decision was appealed to An Bord Pleanala by the applicant (Appeal Reference PL29N.245354). The Board granted permission in December 2015 subject to 12 no. conditions, including Conditions No. 5 and 6 which read as follows:

5. *The courtyard area to the front of the site shall be landscaped and decorated in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.*

This scheme shall include the following:

(i) Details of any planting;

(ii) Hard landscaping works, specifying surfacing materials, furniture, seating etc.

(iii) Wall surface finishes.

Reason: In the interests of residential and visual amenity.

6. *A management scheme, providing adequate measures for the future maintenance of the development, including the external fabric of the buildings, internal common areas, open spaces, landscaping, lighting, cycle parking, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority, before the student accommodation is made available for occupation.*

Reason: To provide for the future maintenance of this development in the interest of amenity and orderly development.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

5.1.1. Land Use Zoning

The site is zoned 'Z8' - Georgian Conservation Areas in the Dublin City Development Plan 2016-2022 with a stated objective '*protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective*'. The Development Plan details the following aim in relation to this zoning objective: - '*the aim is to protect the architectural character/design and overall setting of such areas*'. Residential is a 'permissible use' under this zoning objective.

5.1.2. Other Relevant Sections/ Policies

The townhouse featuring on site is a Protected Structure (RPS. No. 6414) and the subject site falls within an area identified as a 'Conservation Area'. The National Inventory of Architectural Heritage has surveyed the subject building (NIAH Ref.

50010627) and deemed it to be of architectural and artistic interest as well as affording it a regional rating. Further to this, the townhouses featuring on Parnell Square West, to the north-west and south-east of the subject site, are also Protected Structures and falls within a 'Conservation Area'.

The following policies are considered relevant to the consideration of the subject proposal:

Section 11.1.5 Policy CHC1:

'To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.'

Section 11.1.5.1 The Record of Protected Structures Policy CHC2:

'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;*
- (e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works....'*

Section 11.1.5.4 Architectural Conservation Areas and Conservation Areas: Policy CHC4

'To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its

character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

.....

Development will not:

- 1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area*
- 2. Involve the loss of traditional, historic or important building forms, features, and detailing including roof-scapes, shop-fronts, doors, windows and other decorative detail.*
- 3. Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors*
- 4. Harm the setting of a Conservation Area*
- 5. Constitute a visually obtrusive or dominant form.'*

5.2. Dublin City Development Plan 2022-2028

5.2.1. Dublin City Council has started the preparation of a new Dublin City Development Plan for the period 2022 to 2028. It is understood that Stage 2 of public consultation on the draft Development Plan concluded on 14th February 2022.

5.3. Architectural Heritage Protection Guidelines for Planning Authorities (2011)

5.3.1. The subject site features a Protected Structure (RPS. No. 6414). Therefore, the 'Architectural Heritage Protection, Guidelines for Planning Authorities' are considered relevant. These guidelines are issued under Section 28 and Section 52 of the Planning and Development Act 2000. Under Section 52 (1), the Minister is obliged to issue guidelines to planning authorities concerning development objectives: a) for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest, and b) for preserving the character of architectural conservation areas.

5.3.2. The guidelines provide guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting protected structures or within an Architectural Conservation Area. The guidelines seek to encourage the

sympathetic maintenance, adaption and reuse of buildings of architectural heritage. Section 13.4 of the Guidelines relates to development involving features within the Curtilage of a Protected Structure or its Attendant Grounds. More specifically, Section 13.4.3 deals with alterations to boundary features. It states the following in relation to alterations to entrances/walls or railings: - *widening an entrance or altering flanking walls or railings will alter the scale and visual impact of the gate and gate piers.*

5.4. Natural Heritage Designations

5.4.1. The proposed development is not located within or immediately adjacent to any European site. The nearest European site is the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) located c. 2 kilometres north-east.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The applicant contends that the alterations are modest, reversible and essential to ensure the continued viability and operation of the student accommodation use on site. In addition to managing the waste generated by the building, the operators have to deal with waste thrown into the basement level/the steps area by passers-by on this busy street.
- The building on the appeal site is significantly restricted with no rear access owing to the historical pattern of development at the rear. The management of the student accommodation cannot facilitate a bin in the basement level owing to the limitation of getting a bin up the basement stairs and onto the street. Also, leaving plastic bin bags on the street, which comprises a busy footpath next to multiple bus stops, leads to bin bags being ripped, tossed and exacerbates the general litter problem in this area. The provision of one bin on this platform can allow a sturdy bin to be brought on to the footpath for collection.
- The applicant notes the following provisions outlined in the Guidelines for Planning Authorities on Architectural Heritage Protection (2011): - *'the best way*

to prolong the life of a protected structure is to keep it in active use, ideally in its original use. Where this is not possible, there is a need for flexibility within development plan policies to be responsive to appropriate, alternative uses for a structure. A planning authority should carefully consider any proposed change of use and its implications for the fabric and character of the structure. A new use may have many implications for the structure which may not be immediately obvious, for example with regard to compliance with Building Regulations.'

- The applicant states that the permitted use is consistent with National Policy Objective 35 which seeks '*to increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights*'. The Board permitted a student accommodation residential use having regard to the aforementioned policy considerations and this has led to all floors being occupied, unlike many other buildings along the street.
- The front entrance to this Protected Structure consists of a door, steps, plinth and railings. Prior to the permitted development, significant interventions had occurred to the property over many decades. The NIAH notes that many elements of the building were replacement/alterations which were carried out prior to the involvement of the applicant with the site.
- The proposed development is completely reversible/visually modest and should the use of the building change in the future, subject to permission, the development can be reviewed by the Planning Authority or Board. When considering the parent application, the Inspector considered that '*any proposed internal works are reversible and will not have an undue adverse effect on the special interest of the structure*'. The applicant contends the proposed development is also equally reversible and will not have an undue effect on the special interest of the building but will facilitate active residential use.
- The proposed development, which involves a modest intervention, does not harm the overall setting of the terrace and is not visually obtrusive/dominant, as it is hardly noticeable. Therefore, contrary to the suggestion of the Planning Authority, it is consistent with Policies CH4 and CH5.

- Having regard to Section 13.4.3 of the Architectural Heritage Protection Guidelines (2011), the small section of railing removed is not fronting the street but rather flanks the basement area and is located behind the entrance gates in an area that is not visually prominent in any way. Should the Board consider that screen planting be incorporated around the bin storage area, then our client would be happy to accommodate such a condition.

6.2. **Planning Authority Response**

- None.

6.3. **Observations**

- None.

6.4. **Further Responses**

- None

7.0 **Assessment**

- 7.1.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key consideration in the context of the subject application is the proposals impact on architectural heritage.
- 7.1.2. The subject site is located within an area zoned Z8 - Georgian Conservation Area and the subject dwelling is a Protected Structure (RPS No. 6414). For Protected Structures, statutory protection extends to the entire site curtilage, including boundaries unless it is specified in the description that some elements are excluded. In this instance, statutory protection therefore applies to the entire curtilage inclusive of the front yard and gates, railings and plinths. It is considered that the gates, railings, stone plinths and pedestrian footpath to the entrance are significant elements that contribute to the integrity of the Protected Structure on the subject site.
- 7.1.3. The applicant contends that the proposed alterations are modest, reversible and essential to ensure the continued viability and operation of the student accommodation use on site. A Conservation Report, prepared by Keller Architects, was submitted with

the application which provides an analysis of the existing building and includes an analysis of the impact of the proposed development on the protected structure and surrounding area. The report concludes that none of the proposed works and interventions, which are reversible, will materially interfere with the important historical, archaeological, artistic, cultural, scientific, social or technical features of the property.

7.1.4. The main question in the context of the subject proposal is has the architectural heritage of the Protected Structure and the conservation area been significantly or detrimentally impacted upon by the removal of the section of wrought iron railings and associated stone plinth along the front door approach platform/installation of the bin storage platform/associated balustrade serving this student accommodation and will additional significant/detrimental impact occur from the reinstatement of the original wrought iron railings, altered to form a set of swing gates, serving the bin storage platform. As stated previously, the existing pattern of development in the immediate area consists of terraced Georgian dwellings with ground floor/basement accesses and decorative iron railings, gates and stone plinths featuring along the property frontages. From my site inspection, these ground floor/basement access arrangements and decorative iron railings, gates and stone plinths remain largely intact. The evidence on site is that the works carried out to date have been detrimental to the character of the Protected Structure featuring on the subject site and the Conservation Area more broadly, the works carried out having detracted from the appearance of the existing structure. I do not consider that the proposed reinstatement of the original wrought iron railings, altered to form a set of swing gates, serving the bin storage platform will counteract the detrimental/significant impact that has been caused by the railing/stone plinth removal and bin storage platform/balustrade installation that has occurred.

7.1.5. I appreciate that the building on the appeal site is significantly restricted and find the applicant's reasons for wanting to introduce such a waste storage area along the property frontage to be a reasonable/logical desire from a management perspective, however, the nature of the existing pattern of development does not lend itself to the provision of such a waste storage area without a significant/detrimental knock on effect on the Protected Structure featuring on the subject site and the Conservation Area more broadly. Further to this, upon review of the lower ground floor and ground floor plans approved under ABP Ref. PL29N.245354, I think sufficient bin storage space is

available at basement level to serve the student accommodation development featuring on site without the need for a permanent unsightly bin storage area along the ground floor level street frontage.

- 7.1.6. I am of the view that the removal of the section of wrought iron railings and associated stone plinth along the front door approach platform/installation of the bin storage platform/associated balustrade is unacceptable and has had a negative visual impact on the streetscape and on the integrity of this Protected Structure/Conservation Area. The proposed development, in itself and by the precedent it would set for similar development in the area, would be contrary to the policies and objectives of the Dublin City Development Plan 2016-2022 and the Architectural Heritage Protection Guidelines for Planning Authorities (2011). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

8.0 Appropriate Assessment

- 8.1.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

9.0 Recommendation

- 9.1. Having regard to the foregoing, it is recommended that permission be refused for the proposed development for the reason and consideration set out below.

10.0 Reasons and Considerations

The proposal would have a negative visual impact on the streetscape and on the integrity of this Protected Structure/Conservation Area. The proposed development, in itself and by the precedent it would set for similar development in the area, would be contrary to the policies and objectives of the current Dublin City Development Plan 2016-2022, specifically Policies CHC2 and CHC4, and the Architectural Heritage Protection Guidelines for Planning Authorities (2011). Therefore, the proposed

development would be contrary to the proper planning and sustainable development of the area.

Margaret Commane
Planning Inspector

21st April 2022