



An
Bord
Pleanála

Inspector's Report

ABP-313160-22

Development	PROTECTED STRUCTURE: Vehicular access and off-street parking
Location	68, Rathmines Road Lower, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3026/22
Applicant(s)	Richard Hogan
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Richard Hogan
Observer(s)	Philip O'Reilly Rathmines Initiative
Date of Site Inspection	13/09/2022
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is located on the eastern side of Rathmines Road Lower, a busy residential & commercial thorough fare running from the village of Rathmines to the Grand Canal. The subject site is one of a terrace of 11 no. Protected Structures located to the immediate south of a large distinctive copper-domed Church. The two-storey and three-storey over semi-basements dwellings all retain the distinctive railings over brick walls with pedestrian gates bounding Rathmines Road Lower. To the rear of the terrace is a terrace of mews dwellings Richmond Mews.
- 1.1.2. A segregated cycle path runs along the length of Rathmines Road outside the subject site. On the opposite side (northbound) is a 24 hour bus lane. To the west of the site are the grounds and playing pitches of a secondary school.

2.0 Proposed Development

- 2.1. On the 7th January 2022 planning permission was sought to create a new vehicular entrance and car space by the removal of the existing railing wall and granite capping.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 3rd March 2022 the Planning Authority issued notification of their intention to REFUSE permission for the following two reasons:
- 1 The proposed provision of a vehicular access would result in the removal of the individual original historic boundary treatment at No. 68 Rathmines Road Lower which is a Protected Structure within the wider terrace of nine properties which retain the original, unaltered front boundary treatment with elaborate tall ironwork gates. The proposed development therefore does not relate to nor complement its special architectural character and would seriously injure its legibility, setting and presentation as well as that of the historic terrace and would therefore set an undesirable precedent. Therefore the proposed works would contravene Policy CHC2 and Section 16.10.18 of the Dublin City Council Development Plan 2016-2022.

2. Having regard to the location of the site on one of the main arterial routes serving the suburbs and City Centre, it is considered that the provision of a vehicular entrance at this location would result in potential vehicular and pedestrian conflict; the creation of hazardous manoeuvres across a busy road; and, would endanger public safety by reason of a traffic hazard and obstruction of road users. The development would therefore, by itself and by reason of the undesirable precedent it would set for other similar development in the area, be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

- 3.2.1. **Drainage Division:** No objection subject to conditions.
- 3.2.2. **Transportation Planning:** Vehicular entrance at this location would result in hazardous manoeuvres. Permission should be refused.
- 3.2.3. **Conservation Officer:** No. 68 is a Protected Structure in a residential conservation area. Permission was refused twice for identical development. Proposed removal of original wall is not good conservation practice. Refusal recommended on the grounds of loss of historical character and craftsmanship.
- 3.2.4. **Planning Report:** Proposed development would result in loss of primary fabric, would adversely impact the design integrity of the dwelling and the wider terrace. Proposed development would contravene policy CHC2. Notes the report of the Transportation Division which recommends refusal on grounds of traffic hazard. Recommends refusal for two reasons.

3.3. **Prescribed Bodies**

- 3.3.1. **An Taisce:** Proposed development has been refused twice in the past. Should be refused now on grounds of impact on built heritage.

3.4. **Third Party Observations**

- 3.4.1. Proposed development should be refused due to the impact on the visual amenity / conservation of the area and the traffic hazard it will create.

4.0 Planning History

- 4.1.1. Planning Authority reg. ref. **4032/20**: Planning permission REFUSED for vehicular access and off-street parking.
- 4.1.2. Planning Authority reg. ref. **2892/21**: Planning permission REFUSED for development which keeps the pedestrian gate and surrounding ironwork in place, removes the entire front railing, granite capping and brickwork and form vehicular access and off-street parking.

5.0 Policy Context

5.1. Architectural Heritage Protection – Guidelines for Planning Authorities

- 5.1.1. This guidance, which is a material consideration in the determination of applications, sets out comprehensive guidance for development in conservation areas and affecting protected structures. It promotes the principle of minimum intervention (Para.7.7.1) and emphasises that additions and other interventions to protected structures should be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (7.2.2).
- 5.2. **Section 13.4.3** refers to proposals affecting boundary features. It states that proposals to remove or alter boundary features could adversely affect the character of the protected structure and the designed landscape around it.
- 5.2.1. **Section 13.7.7** and 13.7.8 refer to car parking. The loss of garden may seriously affect the setting and character of a protected structure or of an ACA. Careful consideration should be given to the location of the car park to avoid damage to the character of the structure or its attendant grounds. The demolition of garden walls and the combining of two or more areas of garden to provide car parking within an urban area should generally be avoided. Section 13.7.8 states that where it is necessary to provide car parking, efforts should be made to minimise its impact by careful design and use of materials. The associated alteration of boundary features should not be permitted unless the changes are considered not to be damaging to the character of a protected structure or of an ACA and would not result in inappropriate cumulative changes.

5.2.2. **Section 7.13** refers to avoiding incremental damage. It states that the proposed alteration of the external railings of an individual house and the conversion of its front garden to accommodate car parking may at first appear minor and acceptable. However the impact of the character on the wider area must be considered should substantial numbers also alter historic railings and lose their gardens. The section notes that it can sometimes be difficult to refuse permission for minor works, but a point may be reached when the combined impact of all the small alterations will be considerable and detract substantially from the architectural quality and character of the building or of an area.

5.3. **Dublin City Development Plan 2016-2022**

5.3.1. The subject site is located in an area zoned Z2 with an objective *'to protect and/or improve the amenities of residential conservation areas'*. The subject dwelling is listed as a Protected Structure (House) in Volume 3 of the plan. RPS ref. no. 7193

5.3.2. Policies of note in the development plan include:

CHC1: It is the Policy of Dublin City Council 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.

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 (f) Have regard to ecological considerations for example, protection of species such as bats. Changes of use of protected structures, which

will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.

- 5.3.3. **Policy CHC4** seeks 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.

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.
2. Reinstatement of missing architectural detail or other important features.
3. Improvement of open spaces and the wider public realm, and reinstatement of historic routes and characteristic plot patterns.
4. Contemporary architecture of exceptional design quality which is in harmony with the conservation area.
5. The repair and retention of shop and pub fronts of architectural interest.

Development will not:

1. Harm building 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 roofscapes, shopfronts, doors, windows and other decorative detail.
3. Introduce design details and materials such as PVC, aluminium and inappropriate designed or dimensioned timber windows and doors.
4. Harm the setting of the conservation area.
5. Constitute a visually obtrusive or dominant form.

- 5.3.4. Section 16.10.18 of the plan refers to parking in the curtilage of protected structures and in conservation areas. It acknowledges that poorly designed off-street parking in the front gardens can have an adverse effect on the special interest and character of these sensitive buildings and areas. Limited off-street parking where site conditions exist which facilitate parking provision without significant loss of visual amenity and historic fabric will be considered where the following criteria are met:

- Every reasonable effort is made to protect the integrity of the protected structure and/or conservation area
- There is sufficient depth available in the garden to accommodate a private parked car
- Access to and egress from the proposed parking space will not give rise to a traffic hazard
- The proposal accords with the design criteria set out in Chapter 16
- The remaining soft landscaped area to the front of the structures should generally be in excess of half of the total area of the front garden space, exclusive of car parking area, footpaths and hard surfacing
- Car parking shall be designed so that it is set-back from the house and front boundary wall to avoid excessive impact on the protected structure
- Car parking bays shall be no greater than 5 m x 3 m metres wide
- The proposed vehicular entrance should, where possible, be combined with the existing pedestrian entrance so as to form an entrance no greater than 2.6 m and this combined entrance should be no greater than half the total width of the garden at the road boundary. The gates shall not swing outwards so as to cause an obstruction on the public footpath.
- Where cast iron railings exist, which contribute to the special character of the structure, every effort will be made to preserve and to maintain the maximum amount of original form and construction through minimum intervention. Any original existing gates, piers and cast iron railings that require alterations shall be reused and integrated with all new parking
- Adaptations to the front boundary
- Special regard will be had to circumstances where on-street parking facilities are restricted as a consequence of the introduction of bus priority measures or other traffic management changes. In such situations, every reasonable effort will be made to facilitate proposals for off-street parking in the front gardens of protected structures and in conservation areas subject to the above criteria being met.

5.3.5. Section 16.10.18 goes on to state that proposals for off-street parking will not be permitted in the following circumstances:

- Where satisfactory vehicular access to the rear garden exists or can be easily provided without compromising personal safety and where sufficient rear garden area is available to meet both the parking and open space requirements of the building
- Where there is insufficient area to accommodate a parked car in the front garden or where the proposal relates to vehicles other than a private car (i.e. caravan/boat)
- Where proposals would result in the removal of the entire front boundary of the property
- Where the development would involve the subdivision of original historic communal front areas (shared by two houses or more) into separate driveways and where this would detract seriously from the unique architectural relationship and composition of the buildings and street
- Where off-street parking is proposed in terraces or streets that are characterised largely by pedestrian entrances with few vehicular access openings, such proposals will be examined on their own merits and will be subject to the criteria outlined above
- Where terraces/streets are characterised by railings of unique significance, which are of a type not found largely throughout the city, the planning authority may seek to retain such railings. Similarly, proposals to provide more than one private car within the curtilage of an owner occupied residential building will only be considered in exceptional circumstances where the integrity of the building or area is protected and retained.

5.3.6. Appendix 24 of the development plan refers to Protected Structures and Conservation Areas

5.4. **Natural Heritage Designations**

5.4.1. The site is located c. 4.5 km from the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024).

5.5. EIA Screening

- 5.5.1. Having regard to nature of the development comprising redevelopment of an existing dwelling and the urban location of the site 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. An agent for the applicant has appealed the decision of Dublin City Council to refuse permission. The grounds of the appeal can be summarised as follows:
- The applicant is disabled. This was redacted from the public file.
 - The proposed development involves the retention of the pedestrian gate with surrounding ironwork and the removal of the complete railing, wall and granite capping. These will be used to form a new railing and gates.
 - The proposed development will not have a significant impact on the curtilage of the Protected Structure. Similar development has been carried out at 44 Rathmines Road Lower.
 - The separation of cycle and other traffic has narrowed the road which has slowed traffic. Due to the large number of driveways and access points between the canal and the town hall, road users are adequately warned of egressing vehicles.
 - The proposed driveway to serve a disabled driver causes no new or greater traffic hazard than currently exists.
 - There is no designated disabled parking on the adjoining roads. The two disabled spaces 0.32km and 0.36km are seldom available.
 - No objection from the Drainage Department of Dublin City Council.
 - The applicant has reinstated the dwelling to a single family home.
 - A 24-hour bus lane runs along Rathmines Road Lower so set-down outside the dwelling is not possible. This severely disadvantages the applicant.
 - The Board is requested to grant permission.

6.2. Planning Authority Response

6.2.1. None on file.

6.3. Observations

Philip O'Reilly, 18 Grosvenor Place

- Nothing has changed from the previous two refusals.
- This Lower Rathmines Road terrace is unique with all houses retaining their original front gardens, front boundary walls, railings and gates. There is only one other intact terrace in Dublin.
- Personal circumstances do not justify changing the unique historic setting nature of the terrace.
- Off-street parking would conflict with the bus lane and segregated cycle path.
- The bus shelter to the north of the site and the high hedges of neighbouring properties restricts sight lines.
- The An Taisce submission explains the importance of the intact railings.
- The reasons for refusing permission three times are justified and should be upheld by An Bord Pleanála.
- Permission was recently refused for a similar development in Adelaide Road.

Rathmines Initiative

- The Dublin City Council decision sets out clearly why permission would not be in the interest of the proper planning and sustainable development of the area.
- The Rathmines Initiative supports this decision.
- The applicant was aware of the restrictions of the site when purchasing the property.
- The Board is urged to refuse permission.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised are as follows:

- Conservation and Architectural Heritage
- Traffic

7.2. Conservation and Architectural Heritage

7.2.1. The subject site and its immediate neighbours all have retained their front gardens, with pedestrian access and historic ironwork railings over low, brick walls with granite cappings. The terrace is remarkable that the unbroken boundary has been retained along its entire stretch. It is one of few such terraces that exist in their entirety. The extent of the original decorative railings significantly contributes to the setting of the Protected Structures.

7.2.2. It is considered that the alteration of one set of railings and boundary wall in an unbroken terrace will significantly adversely affect the appearance of the streetscape. The proposed development is considered to be contrary to policy CHC1 and CHC2 of the development plan, both of which seek to preserve the built heritage of the city and the special interest of protected structures.

7.2.3. The development plan is clear (section 16.10.18), that off-street parking will only be permitted where the proposed development will not cause significant loss of visual amenity and historic fabric. I concur with the finding of the Conservation and Planning Officers of Dublin City Council that the proposed development to remove the entire wall and railing would cause significant and adverse impact on the integrity of the terrace.

7.2.4. The proposed development fails to comply with section 16.10.18 of the development plan as there does not appear to be sufficient depth on site to provide inward opening gates without encroaching on the parking space, it does not retain half of the garden space as soft landscaping and proposes an entrance in excess of 2.6m.

7.2.5. The applicant submits that the proposal is for a disabled car parking space and that insufficient accessible parking exists in the immediate area. This is regrettable,

however the individual circumstances of one applicant do not outweigh the adverse impacts on the architectural heritage of the wider area.

7.3. Traffic

- 7.3.1. The proposed development would involve the introduction of traffic movements on to a heavily trafficked road. Rathmines Road Lower is a main arterial route to the city centre. A cycle path segregated from the carriage way by wands runs along the length of Rathmines Road, directly outside the subject path. Any vehicles entering or exiting the subject path would be required to cross over the public footpath and the cycle path. As noted above, none of the properties along this stretch of Rathmines Road have vehicular access.
- 7.3.2. The applicant suggests that the existence of vehicular accesses further north along Rathmines Road would adequately warn the passing traffic of vehicular movements out of the site. I do not accept this argument. Traffic (both ambulatory and mechanical) currently flows freely and safely on the route. The proposed development would undoubtedly create a conflict in the free flow of pedestrians, bicycles and cars along the route.
- 7.3.3. That the applicant requires a disabled parking space is understood. However this cannot occur at the expense of the safe travel movements of the many that currently use of footpath, cycle path and roadway.
- 7.3.4. I note that a Dublin City Council information signage pole and a wand segregating the cycle path are located at the point at which it is proposed to exit. The applicant has not addressed how it is proposed to deal with these issues.
- 7.3.5. It is considered that the proposed development would cause a significant traffic hazard on this busy, heavily trafficked arterial route.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that 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. I recommend permission be REFUSED for the following reasons and considerations:

9.0 Reasons and Considerations

- 1 The proposed development to remove original historic boundary wall and railings that contribute the special architectural character of this section of Rathmines Road, would significantly adversely impact on the setting and context of the subject Protected Structure and the terrace of Protected Structures within which it resides. The proposed development represents an unacceptable loss of historic fabric and therefore contravene Policies CHC1 and CHC2 and section 16.10.18 of the Dublin City Council Development Plan 2016-2022 and the Architectural Heritage Protection Guidelines of 2011.
- 2 The proposed development which would create a new vehicular entrance across a public footpath, across a segregated cycle path and on to a heavily trafficked arterial route from the city centre would cause significant traffic hazard, would create a conflict with more vulnerable road and path users and would interfere with the safety and free flow of traffic on a public road. The proposed development, by itself and by the precedent it would set, would therefore be contrary to the proper planning and sustainable development of the area.

Gillian Kane
Senior Planning Inspector

19 September 2022