



An
Bord
Pleanála

Inspector's Report

ABP-318198-23

Development

Protected structure: Retention:
Waiting room, shelter and associated
site works.

Location

Burlington Dental Clinic, 16 Burlington
Road, Ballsbridge, Dublin 4, D04
XP89

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

4188/23

Applicant(s)

Paul O'Reilly (Burlington Dental Clinic)

Type of Application

Retention Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Paul O'Reilly (Burlington Dental Clinic)

Date of Site Inspection

12th June 2024

Inspector

Conor Crowther

1.0 Site Location and Description

- 1.1.1. The site is located approximately 2km south of Dublin City Centre within the established inner residential suburb of Ballsbridge at No.16, Burlington Road. No.16 currently operates as a dental clinic and is situated within a small row of semi-detached mid-19th century period homes of which all are listed as protected structures. No.16 is a 2 storey above basement hipped roof period townhouse with a single storey rendered waiting room extension to the side and a metal frame covered shelter adjacent to the extension.
- 1.1.2. The site is bounded to the south by No.18 Burlington Road, to the east by No.10 Waterloo Lane, to the north by No.14 Burlington Road and to the west by Burlington Road itself. The site is listed as a protected structure in the Dublin City Development Plan (Ref.1028) and is described as a house. The Amazon Ireland headquarters lie directly opposite the site on Burlington Road and the Bray to City Centre BusConnects Scheme lies to the southwest of the site.

2.0 Proposed Development

- 2.1.1. The proposed development is described as follows:
- Retention of a rendered single storey extension to the side lower ground floor functioning as a waiting room.
 - Retention of metal frame covered single storey shelter to the side lower ground floor.
 - Connection to existing mains services onsite and all ancillary works.
- 2.1.2. The application was accompanied by:
- An Architectural Assessment/Conservation Impact Assessment.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission was REFUSED by Dublin City Council (the Planning Authority) on the 13th September 2023 for the following reasons:

- Poor quality in terms of design, layout and materials, and poor relationship with the original building which is a protected structure.
- Significant and injurious visual impact on the character of the protected structure.
- Contrary to Policy BHA2 of the City Development Plan due to siting, design, layout and materials used.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Planning Officer's report dated 14th September 2023 concluded that permission for the proposed development should be refused for the reasons set out above. The Planning Officer concluded that:

- The proposed development creates a piecemeal development and a congested floor plan for the lower ground floor area.
- Both the shelter and the waiting room internalise 2 windows to the main structure, and the waiting room is not in keeping with the existing protected structure in terms of design and materials used.
- The proposed development does not add to the level of amenity experience by the user and is not appropriate in terms of its layout or materials used.
- The proposed development negatively impacts on the appearance of the structure.
- The elements for retention should be removed within 4 months of the decision.

3.2.3. Other Technical Reports

3.2.4. Drainage Department – no objection.

3.2.5. Conservation Department – recommended refusal based on non-compliance with Policy BHA2 of the Development Plan as the works were not carried out in line with the best conservation practice, have not taken into account the Architectural Heritage Protection Guidelines for Planning Authorities and caused serious injury to

the special character and appearance of the protected structure by way of their siting, design and materials used.

3.3. Prescribed Bodies

- 3.3.1. Irish Water/ Uisce Éireann – no response received.
- 3.3.2. The Heritage Council – no response received.
- 3.3.3. An Taisce – no response received.
- 3.3.4. Fáilte Ireland – no response received.
- 3.3.5. The Arts Council – no response received.
- 3.3.6. Department of Housing, Local Government & Heritage - no response received.

3.4. Third Party Observations

- 3.4.1. None received.

4.0 Planning History

- 4.1.1. I note that the Planning Authority included a number of historic onsite planning applications in their assessment of the planning history which I do not consider to be pertinent to my assessment.

Neighbouring Sites of relevance:

- 4.1.2. 2813/14 – Permission GRANTED in 2014 for extension and refurbishment work to protected structure at 20 Burlington Road, Dublin 4.

5.0 Policy Context

5.1. Architectural Heritage Protection Guidelines for Local Authorities

- 5.1.1. These guidelines were initially issued in 2004 and have since been re-issued in 2011 by the Department of Arts, Heritage & Gaeltacht. The following guidance relates to the proposed development of a protected structure:

- Promote the consideration of the potential impact of proposed development on the character of the protected structure.

- Consider the impact of cumulative extensions on the special interest of a structure.
- Encourage the smallest possible loss of historic fabric and ensure that historic features are not obscured, damaged or destroyed if permitting extensions to protected structures.
- Avoid adversely affecting the principle elevations of the protected structure.
- Extensions should complement the original structure in terms of scale, materials and detailed design.
- The visual impact of an extension from a distance should be considered.
- Assess the reversibility of proposals to allow for the future correction of unforeseen problems without causing damage to the structure.

5.2. Dublin City Development Plan 2022-2028

5.2.1. The following are policies and objectives of relevance to the proposed development from the Dublin City Development Plan:

- Zoning Objective Z2 (Residential Neighbourhoods – Conservation Areas) – ‘To protect and/or improve the amenities of residential conservation areas’.
- Record of Protected Structures No.1028 – No.16 Burlington Road (house).
- Policy BHA2 Development of Protected Structures – ‘That development will conserve and enhance protected structures and their curtilage and will:
 - (a) Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities (2011).
 - (b) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
 - (c) Ensure that works are carried out in line with best conservation practice as advised by a suitably qualified person with expertise in architectural conservation.

- (d) Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.
 - (e) Respect the historic fabric and the special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.
 - (f) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features’.
- Section 15.5.3 Alterations, Extensions and Retrofitting of Existing Non – Domestic Buildings – ‘Works of alteration and extension should be integrated with the surrounding area, ensuring that the quality of the townscape character of buildings and areas is retained and enhanced and environmental performance and accessibility of the existing building stock improved’.

5.3. Natural Heritage Designations

- 5.3.1. The closest site of natural heritage interest to the proposed development is the Grand Canal proposed Natural Heritage Area (002104) which is approximately 300m from the proposed development. The Royal Canal proposed Natural Heritage Area (002103), Booterstown Marsh proposed Natural Heritage Area (001205), South Dublin Bay proposed Natural Heritage Area (000210), North Dublin Bay proposed Natural Heritage Area (000206), South Dublin Bay and River Tolka Estuary Special Protection Area (004024) and the South Dublin Bay Special Area of Conservation (000210) lie approximately 2-4km from the proposed development.

5.4. EIA Screening

- 5.4.1. Having regard to the limited nature and scale of the proposed development, the location of the site within a serviced urban area at a remove from areas of environmental sensitivity, and the criterion set out in Schedule 7 of the Regulations 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 stage (see Appendix 2) and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A 1st party appeal was submitted by Paul O'Reilly (on behalf of the Burlington Dental Clinic), on the 10th October 2023 opposing the decision of the Planning Authority to REFUSE permission. The grounds of appeal are summarised as follows:

- The proposed development to be retained was constructed during the recent COVID pandemic and has become integral to the operation of the dental practice.
- It is accepted that planning permission should have been sought in the first instance.
- Removal of the proposed development would be detrimental to the patient experience.
- Fitzgibbon McGinley Architects, a grade 3 conservation architectural firm, undertook an assessment of the proposed development and found no loss of historic fabric and that the character and importance of the protected structure remained intact.
- The development has been constructed in accordance with best conservation practice.
- The subject structures are not visible from the front of the property unless the gate is open, which is not the case most of the time.
- Access to the lower ground level has not been modified as a result of the proposed development to be retained.
- The waiting room is appropriately air conditioned (photo provided in support of this).
- The applicant is committed to amending the structures, if required, including new façade treatment, roof material modifications and removal of the shelter.

- The subject structures are vital to the day-to-day running of the practice.
- The proposal should be reviewed in conjunction with the original Architectural Assessment/Conservation Impact Assessment.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority requests that the Board upholds the decision of the Planning Authority to REFUSE permission. In the event of a grant of permission, the Planning Authority request that the following conditions be applied:
- A Section 48 development contribution condition.

6.3. Observations

- 6.3.1. None received.

7.0 Assessment

- 7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report of the Planning Authority and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:
- Impact on the Integrity of the Protected Structure
 - Other Matters

7.2. Impact on the Integrity of the Protected Structure

- 7.2.1. I note that the Planning Authority assessed the proposed development as being within an Architectural Conservation Area, however, this is not the case. The provisions of Policy BHA9 of the Development Plan therefore do not apply.
- 7.2.2. In light of the separate nature of the proposed structures to be retained, my assessment will consider the impact of both the waiting room extension and the shelter separately on the integrity of the protected structure:

- 7.2.3. Waiting Room Extension: With regard to the visibility from the front garden and the public realm of the waiting room extension proposed to be retained, it is evident from the drawings submitted and from my site visit that the waiting room extension is not visible from the public realm or the front garden as the height of the existing side entrance/screen wall fully obstructs any view of the ground floor level to the side of the house wherein the structure is located. In addition, the side entrance door was closed during my site visit and appears to remain closed on a regular basis. Notwithstanding this, the opening of this door would only allow for a glimpse of the waiting room extension from the front garden or from the public realm which I do not consider to be a material impact on the character and setting of the protected structure. Thus, I am of the view that the waiting room extension proposed to be retained is not readily visible from the front garden or the public realm, and that the impact of this element of the development proposed to be retained on the character and setting of the protected structure would be minimal.
- 7.2.4. I note that the waiting room extension comprises rendered block walls with a flat roof. I am of the opinion that the rendered walls appropriately reflect the character of the ground floor level of the protected structure by means of the type and colour of materials used. I do not, however, consider the flat roof element of the waiting room to be acceptable due to the sub-standard nature of the material used which is also highlighted by the Planning Authority Conservation Department. In the event of a grant of planning permission, I would suggest the inclusion of a condition to modify the roof materials to include high quality materials such as zinc or lead, as suggested by the Planning Authority Conservation Department.
- 7.2.5. The design and layout of the waiting room extension is such that it is simplistic, square shaped and attached to the protected structure but accessed via the covered shelter. This, in my view, creates the perception of a haphazard, piecemeal development. Notwithstanding this, the scale of the waiting room is reflective of its ancillary use and when considered in isolation does not appear haphazard in nature. Thus, I consider that the design and layout of the waiting room extension in itself does not negatively impact the character and setting of the protected structure.
- 7.2.6. With regard to the internalisation of an existing window within the waiting room extension to the side of the protected structure, I am not of the opinion that this materially impacts the character of the protected structure due to its location on a

side elevation of the protected structure. Thus, the character and setting of the protected structure is not materially impacted. In addition, there is no loss of historic fabric as the existing window has not been filled in and is not covered up or otherwise materially affected.

- 7.2.7. The siting of the waiting room extension close to the side entrance door, although tight, is not unacceptable as it retains access to the side and rear of the protected structure. Thus, I do not consider the siting of the waiting room extension to negatively impact the character and setting of the protected structure. In this regard, I agree with the appellant's architectural assessment of the waiting room extension which states that it has minimal impact on the protected structure and is not visible from the streetscape. I do not agree with the Planning Authority's assessment of the impact of the waiting room extension on the protected structure, particularly its visibility from the front garden or the public realm, as previously stated. In this regard, I consider the scale, visibility and simple design of the waiting room extension to be acceptable, subject to the modification described above.
- 7.2.8. Shelter: Given that the shelter is situated to the rear of the waiting room extension, I am satisfied that this element of the development proposed to be retained is not visible from the public realm or the front garden, nor is it visible in the event that the side entrance door is open as the waiting room extension obstructs any view of the shelter from this area. I therefore do not consider the siting of the shelter to negatively impact the character and setting of the protected structure.
- 7.2.9. I note that the shelter includes a metal frame and Perspex screening. I am of the view that the covered metal frame structure does not respect the historic fabric and the special character of the protected structure as it appears unwieldy and uncomplimentary to the rendered brick protected structure to which it is attached. Thus, I am of the opinion that the materials used in the shelter negatively impact the character and setting of the protected structure.
- 7.2.10. I note that the design and layout of the shelter is parallel to the side elevation of the existing structure. I also note that similar extensions have been constructed to the sides of both Nos. 20 & 24 Burlington Road, however, the design and layout of said extensions appear of superior quality and design to the shelter proposed to be retained. Given the design and layout of the shelter, I am of the view that it

negatively impacts the character and setting of the protected structure. I therefore concur with the conclusion of the Planning Authority with regard to the shelter and I disagree with the appellant's architectural assessment of the shelter which states it has been carefully designed to have minimal impact on the protected structure. As stated above, I consider the design and layout of the shelter to negatively impact the protected structure as a result of the poor design of the structure and the uncomplimentary materials used.

7.3. Other Matters

- 7.3.1. I note that the drawings submitted by the appellant do not reference any connection to existing mains services onsite, as referenced in the development description. Upon undertaking my site visit, I observed services and plant connecting to the waiting room extension which appear to consist of a variety of electrical plant and a heat pump/AC unit. This plant is affixed to the protected structure and the screen wall of the protected structure. This is reflected in photograph 3 and 6 of my photo presentation accompanying this report. As the said plant and services are not included in the drawings submitted or otherwise outlined or described, I do not consider them within the scope of the development for which retention planning permission is sought.

7.4. Conclusion

- 7.4.1. I note that the conclusions of the appellant's Architectural Impact Assessment contradict that of the Planning Authority's assessment, including the Conservation Department. The Architectural Assessment/Conservation Impact Assessment undertaken by Fitzgibbon McGinley Architects Ltd. (Grade 3 Architects) on behalf of the appellant contends that the impact of both the waiting room extension and shelter on the protected structure is neutral, whereas the Planning Authority concluded that the proposed development has caused serious injury to the special character and appearance of the protected structure. I do not fully agree with either assessment, as I am of the view that the shelter does negatively impact the character and appearance of the protected structure, whereas I am of the view that the waiting room extension can be retained, subject to conditions, without negatively impacting the character and setting of the protected structure. I am therefore

recommending a split decision refusing the retention of the shelter and granting the retention of the waiting room extension, subject to conditions.

8.0 AA Screening

- 8.1.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000, as amended.

The subject site is located along the Burlington Road east of the Amazon Ireland HQ and the Clayton Hotel (Burlington Road) within 2.3km of the South Dublin Bay and River Tolka Estuary Special Protection Area and the South Dublin Bay Special Area of Conservation.

The proposed development comprises retention of a single storey extension to the side lower ground floor functioning as a waiting room, a metal frame covered single storey shelter to the side lower ground floor and all associated site works.

No nature conservation concerns were raised at planning application stage or in the planning appeal.

- 8.1.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The small-scale nature of the proposed development.
- The location of the proposed development in an established inner suburban area that is suitably serviced and well removed from any European sites with no direct connections to European Sites.
- The Planning Authority determined, in their assessment of the proposed development that it would not significantly impact upon a Natura 2000 site.

- 8.1.3. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend a split decision, that planning permission be REFUSED for the retention of the shelter for the reasons and considerations set out in Schedule 1 below, and that planning permission be GRANTED for the retention of the waiting room extension for the reasons and considerations as set out in Schedule 2 below and subject to the conditions set out.

10.0 Reasons and Considerations

Schedule 1 Reasons & Considerations

Having regard to the protected structure status of this building, it is considered that the retention of the shelter, by virtue of the quality of materials, design, layout and relationship with the existing protected structure, has a detrimental impact on the character and setting of the protected structure, and would be contrary to Policy Objective BHA2, of the Dublin City Development Plan 2022-2028. The proposed development is, therefore, contrary to the proper planning and sustainable development of the area.

Schedule 2 Reasons & Considerations

Having regard to the scale, siting and simple design of the waiting room, it is considered that, subject to compliance with the conditions set out below, the retention of the proposed development would not negatively impact on the character and setting of the protected structure and would be in accordance with the Dublin City Development Plan 2022-2028 and the Architectural Heritage Protection Guidelines. The retention of the waiting room extension is, therefore, in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and retained 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.

Reason: In the interest of clarity.

2. The design & material of the roof shall be modified and shall use lead or zinc roof materials. Details of the design and materials shall be submitted to, and agreed in writing, with the planning authority prior to commencement of the works. Such works shall be completed 6 months from the date of this order or within such period as may be agreed with the planning authority.

Reason: In the interests of clarity.

3. All works to the structures, shall be carried out under the supervision of a qualified professional with specialised conservation expertise.

Reason: To secure the authentic preservation of the structures and to ensure that the proposed works are carried out in accordance with best conservation practice.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

6. Existing plant and equipment located between the proposed waiting room extension to be retained and the screen wall to the north, which are affixed to

the fabric of the protected structure are not subject of this grant of retention planning permission.

Reason: In the interest of clarity as such plant and equipment is not described on the plans and drawings accompanying the planning application.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Conor Crowther
Planning Inspector

17th July 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

| | | | | |
|---|--|--|----------------------------------|---|
| An Bord Pleanála Case Reference | ABP-318198-23 | | | |
| Proposed Development Summary | Protected structure: Retention: Waiting room, shelter and associated site works. | | | |
| Development Address | Burlington Dental Clinic, 16 Burlington Road, Ballsbridge, Dublin 4, D04 XP89 | | | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings) | | Yes | ✓ | |
| | | No | No further action required | |
| 2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class? | | | | |
| Yes | | Class..... | EIA Mandatory EIAR required | |
| No | ✓ | | Proceed to Q.3 | |
| 3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]? | | | | |
| | | Threshold | Comment (if relevant) | Conclusion |
| No | | N/A | | No EIAR or Preliminary Examination required |
| Yes | ✓ | Class 10(b)(iv)/ min. an area greater than 10 ha | | Proceed to Q.4 |

| 4. Has Schedule 7A information been submitted? | | |
|--|---|----------------------------------|
| No | ✓ | Preliminary Examination required |
| Yes | | Screening Determination required |

Inspector: **Conor Crowther** Date: **10th July 2024**

Appendix 2 - Form 2

EIA Preliminary Examination

| | | |
|--|---|------------------------------|
| An Bord Pleanála Case Reference | ABP-318198-23 | |
| Proposed Development Summary | Protected structure: Retention: Waiting room, shelter and associated site works. | |
| Development Address | Burlington Dental Clinic, 16 Burlington Road, Ballsbridge, Dublin 4, D04 XP89. | |
| <p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p> | | |
| | Examination | Yes/No/ Uncertain |
| <p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p> | <p>The location of the proposed development in an urban area that includes extensions of a similar nature confirms that the proposed development comprising a minor extension to an existing structure and use on the site is not exceptional in the context of the existing environment.</p> | <p>No</p> <p>No</p> |
| <p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having</p> | <p>The location of the proposed development in an urban area that includes extensions of a similar size confirms that the proposed development is not exceptional in the context of the existing environment.</p> | <p>No</p> |

| | | |
|--|---|---|
| regard to other existing and/or permitted projects? | | No |
| <p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p> | <p>I note the proximity of the Grand Canal approximately 300m from the site, which discharges to the Liffey River and South Dublin Bay. Given the existing services in the area, I am satisfied that the proposed development will not significantly impact on the Grand Canal.</p> | <p>No</p> <p>No</p> |
| <p align="center">Conclusion</p> | | |
| <p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p> <p>Yes</p> | <p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p> <p>No</p> | <p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p> <p>No</p> |