



An  
Bord  
Pleanála

## Inspector's Report

An Bord Pleanála Ref.

PL29S.246549

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<b>Proposed Development</b>	Removal of front boundary wall to provide off street car parking including site and drainage works.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	2332/16.
<b>Applicant(s)</b>	Soledad Fernandez and Paul Flynn.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Appellant(s)</b>	Soledad Fernandez and Paul Flynn.
<b>Observer(s)</b>	none.
<b>Date of Site Inspection</b>	2 <sup>nd</sup> August, 2016.
<b>Inspector</b>	Stephen Kay.

## **1.0 Site Location and Description**

The appeal site is located on the southern side of South Lotts Road to the north of the railway line. The site comprises a two storey dwelling that forms part of a terrace of four dwellings in this location. The dwellings in this terrace have existing front garden areas that are of approximately 5.5 metres in depth. The stated area of the existing dwelling is 103 sq. metres.

The section of South Lotts Road fronting the site has pay and display parking. It is noted that there are a number of other dwellings located in the general vicinity of the appeal site on the same side of South Lotts Road which have off street parking. These include all three other dwellings in the terrace of four of which the appeal site forms part as well as dwellings located to the south of the appeal site on the same side of the road and dwellings located to the north on the opposite side of the road. It is noted that the two dwellings located to the north of the appeal site (Nos. 35 and 37 have parking bays located outside their frontages despite the fact that they have off street parking spaces.

## **2.0 Description of Proposed Development**

The proposed development comprises the removal of part of the front boundary wall of the dwelling fronting South Lotts Road and the creation of an opening of 3.0 metres in width for the provision of off street parking. Within the site and area of 3.45 metres by 5.5 metres for the parking of a car is proposed to be provided. The existing pedestrian access, gate and path up the front garden are indicated as being retained. No gates to the proposed new opening are indicated on the submitted drawings.

### **3.0 Planning History**

Dublin City Council Ref. 3638/15 – Permission granted for a rear extension at first floor level on the appeal site. This application included for the creation of an off street parking space and new vehicular access however this element of the proposed development was omitted by way of condition.

Dublin City Council Ref. 2952/98 – Permission granted for breaking wall and creation of off street parking space at No.35 South Lotts Road.

Dublin City Council Ref. 4957/05 – Permission granted for new vehicular entrance for off street parking area at No.37 South Lotts Road.

Dublin City Council Ref. 4135/98 – Permission granted for off street parking space at No.38 South Lotts Road.

### **4.0 Planning Authority Assessment and Decision**

#### **4.1 Internal Reports**

Planning Officer – The report of the Planning Officer notes the planning history of the site, the recommendation to refuse permission from the Roads and Traffic Planning Section and cites the provisions of the development plan regarding off street parking in areas where there is pay parking, specifically Policy SI 13 and paragraph 17.40.11. Refusal of permission consistent with the Notification of Decision which issued is recommended.

Roads and Traffic Planning – Notes the planning history of the site and specifically the fact that off street car parking was omitted by way of condition (Condition No.6) of Ref. 3638/15. Report states that the removal of on street spaces to facilitate the provision of private parking is considered undesirable as it reduces the number of spaces available to residents and commercial uses and mitigates against the dual usage of spaces to be benefit of the city. Also notes that proposal contrary to Policy SI13 and 17.40.11 of the City Development Plan.

Drainage Division – No objection.

## **4.2 Notification of Decision**

The Planning Authority issued a Notification of Decision to Refuse Permission for a reason that can be summarised as follows:

That the proposed removal of an off street car parking space to facilitate the construction of a private vehicle access would reduce the supply of on street parking, would directly contravene Policy SI13 of the development plan and would set an undesirable precedent for other similar forms of development.

## **5.0 Appeal Submission**

The following is a summary of the main issues raised in the first party appeal against the Notification of Decision to refuse Permission issued by the Planning Authority.

- That the site is located in an area that is zoned Objective Z1, to protect and improve residential amenity. The nature of the area close to the Aviva stadium and other attractions is such that there is often a significant demand for parking in the area such that it is not possible for residents to get a space

on street in the area covered by their parking permit with resulting impact on residential amenity and cost for pay and display parking in the surrounding area.

- The statement in the planning officer report that while there are other locations with off street parking in the vicinity that there is no record of permission for these developments is not correct. Permission was granted by the council for off street parking at No.35 ((2952/98), No. 38 (4135/98 and No.37 (4957/05).
- The statement that the proposed development would set an undesirable precedent for other similar developments does not make sense as there have already been other similar developments permitted by the council.
- That the council have an objective to reduce the volumes of cars commuting into the city and to eliminate free on street parking. Facilitating off street parking as proposed would contribute to reducing the volumes of cars commuting into the city.
- That the pay and display parking has not reduced volumes of traffic to the city or the number of cars using the spaces on South Lotts Road. The main impact of the proposed development would be a loss of revenue for the council rather than any impact on commuting.

## 6.0 Response Submissions

### 6.1 Response of the Planning Authority to Appeal

Response states that the planning report on file addresses the basis for the decision and that it is not proposed to respond further in detail to the grounds of appeal raised.

## 7.0 Planning Policy

The dwelling on the site is not a protected structure and the site is not located within an ACA or other conservation area designation.

The appeal site is located in an area that is zoned Objective Z1 *‘to protect, provide and / or improve residential amenities’*.

Section 17.40.11 of the Plan relates to on street car parking and states that Dublin City Council will preserve available on street car parking where appropriate and that there will be a presumption against the removal of existing on street parking spaces to facilitate the provision of vehicular entrances to individual dwellings in predominately residential areas and where residents are largely reliant on on-street parking spaces.

*Policy SI13 of the Plan states that ‘it is the policy of Dublin City Council to retain on street parking as a resource for the city in as far as practicable’.*

Appendix 8 of the Plan sets out the standards and design guidance to be met in cases where off street parking is considered to be acceptable in principle.

## 8.0 Assessment

The following are considered to be the main issues of relevance in the assessment of this appeal:

- Principle of Development,
- Traffic Safety
- Design and Other Issues

### 8.1 Principle of Development

8.1.1 Firstly, it is noted that the wording of the Notification of Decision to refuse permission issued by the Planning Authority makes reference to the fact that the proposed development would '*directly contravene*' Policy SI13 of the Plan. The wording does not clearly state that the proposal would materially contravene the development plan and I do not therefore consider that the provisions of s.37(2) of the Planning and Development Act, 2000 (as amended) are applicable in this case.

8.1.2 The location of the site is such that the proposed creation of a new vehicular access would result in the loss of at least one on street pay and display space. The case made by the first party as to why this access should be permitted and the Notification of Decision to Refuse Permission overturned relates to precedent, the negative impact that the non availability of off street parking has on residential amenity and the fact that restricting off street parking does not match with the councils stated objective of reducing car usage and commuting.

8.1.3 With regard to precedent, the appellants cite a number of other houses in close proximity to their where the council permitted off street parking. These locations are at Nos. 35, 37 and 38 South Lotts Road and are therefore in very close proximity to

the appeal site. I note the location of these developments however I also note the fact that the most recent of these developments was permitted in 2005 with the other two cases dating from 1998. These permissions were therefore assessed under development plans which have long since expired and it is not clear that these permissions were granted contrary to policy which was in place at that time. I do not therefore consider that the fact that there have been similar developments granted in the vicinity to mean that there is a clear precedent for the current proposal. With regard to precedent it is also noted that the two dwellings to the immediate north of the appeal site (Nos. 35 and 37) have off street parking spaces and entrances that access directly onto a section of the road where there is pay and display parking, presumably making it impossible to access these off street spaces at certain times. It is not apparent how this is the case as the planning history of the area shows that both dwellings obtained permission for off street parking.

8.1.4 Similarly, the appellants argue that the statement in the refusal issued by the Planning authority that the development would lead to an undesirable precedent for other similar developments does not make sense given other permitted developments. I do not consider that the permitted developments cited constitute a valid precedent for the current proposal and therefore consider that the Council are correct to state that a grant of permission would create an undesirable precedent for similar developments in the future.

8.1.5 With regard to the negative impact on residential amenity that would arise, I would accept that for the occupants of the dwelling, the availability of an on street dedicated parking space would be beneficial. This convenience does however have to be set against the wider benefits of the availability of public parking and the contribution that such parking availability makes to the economic life of the city. The appellants cite the fact that they are unable to get parking during instances of matches and social activities at local attractions. In the event that parking on street



was lost due to the construction of the proposed development then that would be one less space available to support these local attractions and functions. On street parking also has a potential dual use in that it is available during the day to support commercial activity while then being used in the evenings by residents. The provision of off street parking means that this potential dual usage is lost.

8.1.6 The appellants contend that the provision of on street car parking is contrary to the stated objective of the council of limiting commuting and trips to work by car. I would agree that the council has a general objective to limit car commuting and the promotion of public transport, however it also has an objective of promoting commercial activity and the general functioning of the city. Pay and display parking is in my opinion consistent with the councils objectives acting to restrict all day commuter parking while ensuring that commercial activities can be served. The elimination of free public parking is consistent with the aim of reducing commuter parking and encouraging modal shift away from car, however I would not accept that restricting pay and display parking is consistent with the overall aims of the council regarding employment and general economic activity.

8.1.7 These aims are reflected in Policy SI13 of the City Development Plan which clearly states that it is the policy of the council to retain on street parking as a resource for the city and, for the reasons set out above I consider that this policy is appropriate and reasonable. The current proposal is clearly contrary to Policy SI13 as it would result in the loss of on street pay and display parking and notwithstanding the potential benefit to residential amenity that may arise from the proposed development and the location of the site in a residentially zoned area I consider that the proposed development is not acceptable in principle on the basis of its contravention of Policy SI13.

## **8.2 Traffic and Pedestrian Safety**

8.2.1 The proposed development is located in an area where there is existing on street parking and where there is a significant volume of traffic. The traffic and pedestrian safety implications of the proposal were not specifically addressed in the report from the Roads and Traffic Planning Division, however the fact that the proposed development would result in cars potentially reversing onto the public road would not be ideal in traffic safety terms.

8.2.2 The area in the vicinity of the site is such that there are no other structures located in close proximity to the proposed entrance that would directly obstruct access. There is a light pole and a tree located approximately 30 metres to the north of the proposed entrance however I do not consider that these structures would restrict visibility for persons accessing or egressing the site.

## **8.3 Design and Other Issues**

8.3.1 It is noted that no design for a gate to the off street parking area has been provided as part of the application. In the event that a grant of permission was being considered it is recommended that details of a design be submitted for agreement of the Planning Authority. Such details should also include some proposal for the landscaping of the site.

## **9.0 Recommendation**

In view of the above it is recommended that permission be refused based on the following reasons and considerations:

## Reasons and Considerations

1. Policy SI13 of the Dublin City Development Plan, 2011-2017 states that it is the policy of the council to retain on street parking as a resource for the city as far as practicable and Paragraph 17.40.11 of the Plan states that there will be a presumption against the removal of on-street parking spaces to facilitate the provision of vehicular entrances to single dwellings in predominately residential areas where residents are largely reliant on off street on-street parking. The proposed development to provide a private vehicular access and off street parking area would result in the removal of existing on street parking in a location of high parking demand. The proposed development would therefore be contrary to Policy SI13 of the Plan, would set an undesirable precedent for other similar developments in the future and would be contrary to the proper planning and sustainable development of the area.

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**Stephen Kay**  
Planning Inspector

2<sup>nd</sup> August 2016