



An  
Bord  
Pleanála

## Inspector's Report 05E.249219

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<b>Development</b>	Front drive and front vehicular access
<b>Location</b>	123 Brian Road, Marino, Dublin 3.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3215/17
<b>Applicant</b>	Anne Marie Keeley
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission with Conditions
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Anne Marie Keeley
<b>Date of Site Inspection</b>	9/11/2017
<b>Inspector</b>	Dolores McCague

## 1.0 Site Location and Description

- 1.1. The subject site is located at 123 Brian Road, Marino, Dublin 3.
- 1.2. Brian Road is part of a large area developed for housing in early years of the state, (late 1920s early 1930s). The formal layout was influenced by the garden city movement of the time and also reflected a pre-existing plan for a formal garden on these lands, for Marino House.
- 1.3. The layout is symmetrical with circular and lozenge shaped greens fronted by housing and with other residential roads radiating out spoke like. Some of the roads, such as those fronting greens, are one way. Traffic is fairly well distributed on the network of roads although some roads have been converted to cul-de-sacs and some such as Brian Road are more direct routes.
- 1.4. The area is close to the centre of the city and within walking distance of facilities and amenities. It comprises two storey terraced housing set behind front gardens with post and rail metal fencing forming the boundaries between the front gardens of adjoining properties and post and rail metal fencing, over shallow concrete plinths, forming the boundaries between properties and the public footpath. Pedestrian gates of similar design provide the main access, with pedestrian lanes accessing the rear of properties.
- 1.5. The post and rail metal fencing is part of the special interest and contributes to the character and uniformity of the area but they have been replaced in some cases by other treatments including block or brick piers, dwarf walls and modern metal railings above, and in some cases the removal of part of the front boundary for vehicular access and on-site parking. The areas to the front of properties immediately adjacent of No. 123 to either side of the subject site (nos 125 and 121) have been so modified. On road parking is a notable feature of the area.
- 1.6. This site retains its post and rail fencing and pedestrian post and rail gate with a privet hedge inside.
- 1.7. The site is given as 200m<sup>2</sup>.

## 2.0 Proposed Development

- 2.1. The proposed development is described as a front drive and front vehicular access. The drawings submitted with the application show a 4.8m access width, out of a total site width of 6.1m. There appears to be a small residual portion of fence at either side of the opening. The area between the front boundary line and the dwelling, 5.8m in depth, is to be paved with pervious paviers.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.2. The planning authority decided to grant permission subject to conditions including no. 2:

The development hereby approved shall incorporate the following amendments:

a) the vehicle entrance shall be 2.6m in width only. The entrance shall incorporate the existing pedestrian entrance into its width and the remainder of the front railings shall be permanently retained.

b) An area of hard surfacing for parking shall be provided no wider than three metres with the remainder of the front garden being permanently retained in soft landscaping/planting. In particular along the shared boundary with No. 121 Brian Road.

Reason: To protect the existing amenities of this important residential conservation area and to comply with current Dublin City Development Plan requirements, in particular Section 16.10.18.

- 3.3. The decision was in accordance with the planning recommendation.

### 3.4. Planning Authority Reports

- 3.5. Planning Report:

- 3.6. The planning report includes that the proposed development would see almost the entirety of the front boundary being removed with a single entrance of 4.8m in width

being provided. The plans also appear to indicate that the front garden would be fully given over to paving for parking.

3.7. The property is located in a residential conservation area where domestic vehicle entrances must not exceed 2.6m in width. The proposed entrance is therefore not acceptable as proposed.

3.8. It is noted that there is a sizeable vehicle entrance to No. 125 adjoining, however permission granted under 3614/08 was for an entrance no wider than 2.6m. The wider entrance is a matter for planning enforcement and is not a precedent. The principle of the development of a vehicle entrance is acceptable and there is a precedent for an appropriately scaled entrance in this area.

3.9. Other Technical Reports

3.10. Engineering Department – Drainage Division – conditions.

3.11. Roads & Traffic Planning Division – conditions:

- Maximum width 3.6m with no outward opening gates.
- Footpath and kerb to be dished and new entrance provided to the requirements of the Area Engineer, Roads Maintenance Department.
- All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.
- The developer shall be obliged to comply with the requirements set out in the Code of Practice.

## 4.0 Planning History

3614/08 - 125 Brian Road – permission granted for vehicular access driveway and all associated works.

2599/06 117 Brian Road - permission granted for widening the existing off-street car parking entrance to the front of the dwelling, providing a separate pedestrian entrance and widening the existing footpath discharging to the driveway to Brian Road.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2016-2022

The Dublin City Development Plan 2016-2022 is the operative plan. Relevant provisions include:

General policy in relation to conservation areas - it is the Policy of Dublin City Council that development will not harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area.

Policy in relation to parking in the Curtilage of Protected Structures and in Conservation Areas (16.10.18) - poorly designed off-street parking in the front gardens of protected structures and in conservation areas can have an adverse affect on the special interest and character of these sensitive buildings and areas. For this reason, proposals for off- street parking in the front gardens of such buildings will not normally be acceptable where inappropriate site conditions exist, particularly in the case of smaller gardens where the scale of intervention is more significant – and can lead to the erosion of the character and amenity of the area. Where site conditions exist which facilitate parking provision without significant loss of visual amenity and historic fabric, proposals for limited off-street parking will be considered where certain criteria can be met, including:

- 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 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.
- 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.

Proposals for off-street parking in the front gardens of protected structures and within conservation areas will not be permitted:

- Where satisfactory vehicular access to the rear garden exists
- 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.

In relation to general parking - There will be a presumption against the removal of on-street parking spaces to facilitate the provision of vehicular entrances to single dwellings in predominantly residential areas where residents are largely reliant on on-street car-parking spaces. Dublin City Council will continue to implement a policy on car parking in the city that seeks to manage and provide car parking as part of the overall sustainable transport needs of the city.

Policy MT14: To minimise loss of on-street car parking, whilst recognizing that some loss of spaces is required for, or in relation to, sustainable transport provision, access to new developments, or public realm improvements.

**5.2. Sustainable Residential Development in Urban Areas, Planning Guidelines for Authorities, Department of Environment, Heritage and Local Government 2009.**

The guidelines are intended to assist in delivering quality residential development. Detailed advice on the criteria to be considered in the design and assessment of higher density residential development is provided in the Department's companion design manual. These factors include: suitable parking provision close to dwellings. Most residential streets – as witnessed by many existing streets in cities and towns – can successfully combine low to medium traffic movements with a pleasant residential setting, including on-street parking where street widths permit. The UK's "Manual for Streets" (UK Dept of Communities and Local Government, 2007) is cited in relation to the functions of a street, including parking.

**5.3. Urban Design Manual A, best practice guide. A companion document to the Sustainable Residential Development in Urban Areas**

This is a complementary Urban Design Manual to illustrate the planning guidelines, addressing the practical aspects of creating successful neighbourhoods. The Guide is based around 12 criteria that have been drawn up to encapsulate the range of design considerations for residential development representing a distillation of current policy and guidance and tried and tested principles of good urban design. Item 11 of the 12 criteria refers to parking and states:

- Appropriate car parking is on-street or within easy reach of the home's front door.
- Parking is provided communally to maximise efficiency and accommodate visitors without the need to provide additional dedicated spaces.

Some of the most successful neighbourhoods in our towns and cities manage to efficiently accommodate relatively high levels of parking on the street. Unallocated on-street parking has been proven to be particularly efficient in use, since it allows

an offsetting of parking provision between the homes in the neighbourhood. This offsetting allows households with relatively high levels of car ownership to utilise space freed up by households that do not own a car. Offsetting also works at different times of the day.

#### 5.4. **Design Manual for Urban Roads & Streets**

5.5. Joint publication by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government.

5.6. Better street design in urban areas will facilitate the implementation of policy on sustainable living by achieving a better balance between all modes of transport and road users. It will encourage more people to choose to walk, cycle or use public transport by making the experience safer and more pleasant. It will lower traffic speeds, reduce unnecessary car use and create a built environment that promotes healthy lifestyles and responds more sympathetically to the distinctive nature of individual communities and places. It will enhance how we go about our business, how we interact with each other and have a positive impact on our enjoyment of the places to and through which we travel.

The Manual seeks to address street design within urban areas (i.e. cities, towns and villages), by setting out an integrated design approach: that the design must be: a) influenced by the type of place in which the street is located, and b) balance the needs of all users and put well designed streets at the heart of sustainable communities because they can create connected physical, social and transport networks that promote real alternatives to car journeys, namely walking, cycling or public transport.

To encourage more sustainable travel patterns and safer streets, designers must place pedestrians at the top of the user hierarchy: consider pedestrians first, cyclists second, public transport third and private motor vehicles last.

The manual advocates onstreet parking, which can calm traffic by increasing driver caution, visually narrow the carriageway and reduce forward visibility, support retail/commercial activity and contribute to pedestrian/cyclist comfort by providing a buffer between the vehicular carriageway and foot/cycle path. On-street parking on



public streets should not be allocated to individual dwellings. This allows for a more efficient turnover of spaces and, as such, fewer spaces are needed overall.

In relation to road safety audits which follow the Manual, they should not recommend any actions that will reduce ease of movement for pedestrians/cyclists in favour of motor vehicles.

#### **5.7. Manual for Streets (2007) UK Dept of Communities and Local Government.**

This document is cited in the Sustainable Residential Development in Urban Areas and the Urban Design Manual A, best practice guide. A companion document to the Sustainable Residential Development in Urban Areas. It considers roads in terms of their place and movement functions. Accommodating parked vehicles is a key function of most streets, particularly in residential areas. Not all parking spaces need to be allocated to individual properties. Unallocated parking provides a common resource for a neighbourhood or a specific development. A combination of both types of parking can often be the most appropriate solution. Communal parking only needs to provide for average levels of car ownership; allows for changes in car ownership between individual dwellings over time; provides for both residents' and visitors' needs; and can cater for parking demand from non-residential uses in mixed-use areas, which will tend to peak during the daytime when residential demands are lowest.

Off-street parking often requires motorists to cross footways. Crossovers to private driveways are commonly constructed by ramping up from the carriageway over the whole width of the footway, simply because this is easier to construct. This is poor practice and creates inconvenient cross-falls for pedestrians. Excessive cross-fall causes problems for people pushing prams and can be particularly difficult to negotiate for people with a mobility impairment, including wheelchair users. Where it is necessary to provide vehicle crossovers, the normal footway cross-fall should be maintained as far as practicable from the back of the footway (900 mm minimum).

#### **5.8. Natural Heritage Designations**

The South Dublin Bay and River Tolka SPA site code 004024 is the nearest Natura site situated c900m from the subject site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.2. The appeal by the first party refers to condition 2 a).

6.2.1. The grounds of appeal includes:

- They are looking for a vehicle entrance of 2.6m in addition to the existing pedestrian entrance already in place. A revised drawing from their architect is attached which outlines details to show their proposal to retain the existing gates and the new opening of 2.6m which will be used for vehicle access.
- Under the building regulations there should be approx 1m width to allow a wheelchair & pedestrian access for buggies. Based on the condition, this would mean that the car would have to be parked right in front of their front door as a total width of 2.6m combined for vehicle & pedestrian access, which is not practical. The car would require at least 1.8m width access so at a very minimum this would be 2.8m rather than 2.6 and still leave little room for manoeuvre outside the front door.
- The first party wants to maintain the existing pedestrian access gate and have an opening of 2.6m for car access in addition. To grant an opening for a car access shouldn't impede on the current existing pedestrian access. If condition 2a was to remain it would mean that a car could still park on the public road outside, beside the tree, obscuring the view for them coming in / out of their driveway and defeating the purpose. The road is a very busy road with traffic parked on both sides with many people using it as a park & ride stop, and regular 123 bus passing, and additional traffic / parking for matches and concerts in Croke Park.
- Their reason for the application is the lack of parking outside their own door and the safety concern of trying to load/unload 2 small children beside such a busy road.

6.2.2. A letter accompanying the appeal from FD Veritenstein's Studio d'Architectes includes:

- 6.2.3. Due to the shallowness of the 5.3m deep front garden (*note 5.8m shown on the drawings*), a normal sized family car would come very close to the footpath and so occupy most of the 2.6m combined vehicular and pedestrian access and limit pedestrian access to as little as 40mm both sides of the car.
- 6.2.4. A sketch drawing is attached showing the compromise proposal submitted for the Board's attention.

## 7.0 **Assessment**

- 7.1.1. Further to S139 of the Planning & development Act, having regard to the nature of the proposed development and the condition, the Board should consider the application *de novo*.
- 7.1.2. The issues which arise in relation to this appeal are appropriate assessment, parking management, impact on pedestrians, conservation and condition no. 2 and the following assessment is dealt with under these headings.

### 7.2. **Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

### 7.3. **Parking Management**

- 7.4. As pointed out in the various guidance documents cited earlier in this report, unallocated parking provides a common resource for a neighbourhood and is an efficient form of parking provision. It allows for changes in car ownership between individual dwellings over time; provides for both residents' and visitors' needs; allows offsetting between households and between households and other users, and allows for offsetting at different times of the day.
- 7.5. In the subject case the choice is between private on-site parking for one car and unallocated on-street parking for at least one car, since the proposed vehicular

access and the provision of a single on-site parking space will have the effect of reducing on-street provision by more than a single space.

- 7.6. The grounds refers to their concern that if condition 2a was to remain it would mean that a car could still park on the public road outside, beside the tree, obscuring their view coming in / out of their driveway. In this case because adjoining properties have reduced the capacity for on road parking sufficient space would not remain for the parking of a car post development in front of the subject site, but the overall site width of 6.1m, suggests the potential for slightly in excess of one parking space if roadside parking was continuous along the street.
- 7.7. The grounds also refers to the use of the area for parking associated with events such as matches and concerts in Croke Park. This issue is better dealt with by parking permits and applying parking charges rather than reducing the resource which on-street parking represents.
- 7.8. Unallocated/on street parking is a more efficient method of providing for parking in residential areas such as the subject area and its use is recommended in preference to on site provision in:
- Sustainable Residential Development in Urban Areas, Planning Guidelines for Authorities, Department of Environment, Heritage and Local Government 2009,
  - Urban Design Manual A, best practice guide. A companion document to the Sustainable Residential Development in Urban Areas,
  - Design Manual for Urban Roads & Streets, cited above.
- 7.9. The current Dublin City Development Plan to manage and provide car parking as part of the overall sustainable transport needs of the city and to minimise loss of on-street car parking, whilst recognizing that some loss of spaces is required for, or in relation to, sustainable transport provision, access to new developments, or public realm improvements.
- 7.10. The loss of on-street car parking is, in my opinion, a reason to refuse permission.

### **7.11. Impact on Pedestrians**

- 7.12. As pointed out in the UK publication *Manual for Streets* (2007), ramps which cross the whole width of the footpath, as is the case in No. 125 adjoining, create inconvenient cross-falls for pedestrians. The widening of entrances, particularly where they are altered from pedestrian to vehicular use, increases private ownership of the public realm and diminishes the public's ownership of the area to the front of the entrance.
- 7.13. The *Design Manual for Urban Roads & Streets*, a joint publication by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government advises that actions should not be recommend that will reduce ease of movement for pedestrians/cyclists in favour of motor vehicles.
- 7.14. In my opinion the proposed development would have an adverse impact on pedestrian users of the footpath and would comprise an intervention favouring vehicles over pedestrians, contrary to the hierarchy set out in the *Design Manual for Urban Roads & Streets* and this is a reason to refuse permission.

### **7.15. Visual Amenity and Conservation**

- 7.15.1. The Dublin City Development Plan notes that poorly designed off-street parking in the front gardens in conservation areas can have an adverse affect on the special interest and character of these sensitive areas. Proposals for off- street parking in such front gardens will not normally be acceptable where inappropriate site conditions exist, particularly in the case of smaller gardens where the scale of intervention is more significant and can lead to the erosion of the character and amenity of the area.
- 7.15.2. Proposals will only be considered where certain criteria can be met including that 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 and proposals for off-street parking in the front gardens will not be permitted in where there is insufficient area to accommodate a parked car.

- 7.15.3. In the subject case the grounds of appeal refers to the need to provide a 1m pedestrian access to allow a wheelchair & pedestrian access for buggies. The combined area of pedestrian access and parking is well in excess of half of the total area of the front garden space.
- 7.15.4. These front gardens are not capable of accommodating a single car space. As pointed out in the grounds of appeal, a parked car can barely fit between the building line and the inner edge of the footpath and it should be noted that gates, which are not part of the proposal, could not be inward opening.
- 7.15.5. The proposal would involve the loss of post and rail fencing which contributes to the special character of the area and change of the front area from garden to hard surface/parking which would adversely impact on the visual amenities of the area.
- 7.15.6. In my opinion the proposed development would have an adverse impact on the visual amenity and conservation value of the area and this is a reason to refuse permission.

7.16. **Condition No. 2**

7.17. The appeal is against condition No. 2 which the first party states will not allow for the provision of sufficient access for pedestrians together with the parking of a vehicle and in this regard a revised proposal has been submitted for the Board's consideration.

7.18. Condition No. 2 states:

The development hereby approved shall incorporate the following amendments:

- a) The vehicle entrance shall be 2.6m in width only. The entrance shall incorporate the existing pedestrian entrance into its width and the remainder of the front railings shall be permanently retained.
- b) An area of hard surfacing for parking shall be provided no wider than three metres with the remainder of the front garden being permanently retained in soft landscaping/planting. In particular along the shared boundary with No. 121 Brian Road.

- 7.19. The reason given for including the condition is ‘to protect the existing amenities of this important residential conservation area and to comply with current Dublin city Development Plan requirements, in particular Section 16.10.18’.
- 7.19.1. Although it is considered that the reason for the condition is reasonable, due to the very restricted size of the front garden for parking even a single car, limiting the width to 2.6m, which is a standard width used in conservation areas, is incompatible with the constraints of this site; and this should be borne in mind should the Board be minded to grant permission.

## **8.0 Recommendation**

- 8.1. In accordance with the foregoing assessment I recommend that planning permission be refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

- 1 The proposed vehicular access and car parking area, by reason of the resultant loss of at least one on-street car parking space in a location where there is high demand for on-street car parking, would be contrary to Policy MT14 of the Dublin City Development Plan 2016-2022, which seeks to minimize loss of on-street parking as a resource for the city and would be contrary to guidance provided in the Sustainable Residential Development in Urban Areas, planning guidelines, its companion the Urban Design Manual, and the Design Manual for Urban Roads & Streets, and would therefore be contrary to the proper planning and sustainable development of the area.
- 2 The proposed provision of a parking space within a very restricted front garden and the removal of most of the existing roadside boundary railings would constitute a significant intervention in the built fabric, eroding the character and amenity of the area such as to severely impact on the special interest and character of this sensitive conservation area, accordingly the

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

- 3 The proposed development would detract from the public realm, reduce the ease of movement of pedestrians using the public footpath would set an undesirable precedent for further such development which would cumulatively be harmful to pedestrian priority and to the residential amenities of the area and contrary to the proper planning and sustainable development of the area.

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Planning Inspector

27<sup>th</sup> November 2017

#### Appendices

- 1 Photographs
- 2 Extracts from Dublin City Development Plan 2016-2022
- 3 Extracts from Sustainable Residential Development in Urban Areas, Planning Guidelines for Authorities, Department of Environment, Heritage and Local Government 2009.
- 4 Extracts from Urban Design Manual a best practice guide. A companion document to the Sustainable Residential Development in Urban Areas, Department of Environment, Heritage and Local Government, 2009.
- 5 Extracts from Design Manual for Urban Roads & Streets, joint publication by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government.
- 6 Extracts from Manual for Streets (2007), UK Dept of Communities and Local Government.