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Bord  
Pleanála

## Inspector's Report ABP-302017-18

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<b>Development</b>	Permission for a new vehicular entrance with pavement dish.
<b>Location</b>	12 Orwell Gardens, Churchtown, Dublin 14
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D18A/0368
<b>Applicant(s)</b>	Ter and Emilie Madigan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	To Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Eamonn and Patricia Dowling
<b>Observer(s)</b>	Dr. Louise Scally
<b>Date of Site Inspection</b>	25.09.2018
<b>Inspector</b>	Erika Casey

## **1.0 Site Location and Description**

1.1. The site, with a stated area of 0.05 hectares is located in the mature residential suburb of Churchtown. It accommodates an end of terrace, two storey dwelling served by a front and rear garden. The rear garden has a steep incline upwards towards Orwell Road.

## **2.0 Proposed Development**

2.1. The proposed development comprises the development of a new vehicular entrance with dished pavement off Orwell Road and associated site works for car parking bay, located to the rear of the property. The entrance is c. 3.5 metres wide with manual sliding gate and new entrance pillars to match existing wall. It is stated that the purpose of the application is to provide off street parking to serve the existing dwelling due to restricted parking to the front of the property and the limited on street car parking in Orwell Gardens.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1 To grant permission subject to conditions. Conditions attached are standard in nature.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Report (14.06.2018)**

- Considered that the proposed boundary treatment harmonises in height and size to the existing streetscape and does not overly dominate the rear boundary wall of the house.
- It is considered that the provision of a new vehicular entrance would not result in significant overlooking of adjacent rear gardens.

- The proposed development is for the provision of a vehicular entrance and provision of hardstanding area to the rear garden of no. 12 Orwell Gardens. Any further planning application will be assessed according to the 2016-2022 County Development Plan.

### 3.2.2. Other Technical Reports

**Transportation Planning (16.05.2018):** No objection subject to conditions. The report notes that sightlines for vehicles exiting onto Orwell Road from the proposed entrance are in accordance with DMURS. The report also notes that there is sufficient room within the proposed new driveway/parking area to accommodate 2 no. future vehicles entering the proposed new vehicular entrance in a forward gear and exiting onto Orwell Road in a forward gear.

**Drainage Panning (23.05.2018):** No objection subject to condition.

### 3.3. Prescribed Bodies

- No submissions.

### 3.4. Third Party Observations

3.4.1 There were a number of objections to the proposed development. Issues raised overlap and can be summarised as follows:

- Consider that the proposed new development will result in a traffic hazard. Refer to the previous planning precedent under Planning Authority Reference D04A/0800 where permission was refused for a new vehicular entrance.
- The proposed development by reason of its elevated position above the garden level of adjacent properties and the replacement of the boundary wall would expose the rear gardens of adjacent properties to unrestricted overlooking resulting in a loss of privacy.
- Consider that the provision of the additional car parking space is unnecessary and that there is ample parking to serve the dwelling to the front from Orwell Gardens.

- State that the vehicular entrance is intended to serve a future backland development on the site.
- Concerns regarding potential noise impacts and flora and fauna will be adversely affected by the development.

## 4.0 Planning History

### Application Reference D15B/0073

#### Subject Site

- 4.1 Permission granted in July 2015 for a part two storey extension to the side and rear and a single storey extension to rear of existing dwelling and associated site development works.

#### In the Vicinity

- 4.2 The following applications in the vicinity of the site are of relevance:

### Planning Authority Reference D17A/0812/Appeal Reference ABP300347-18

- 4.3 Application under appeal (decision due 26/09/2018) for demolition of existing dwelling and construction of 3 no. detached, 3 bedroom split level dwellings with 3 levels of accommodation at lower ground floor, ground floor and first floor. Three vehicular entrances from Orwell Road, landscaping and boundary treatments, site development works and services.

### Planning Authority Reference D04A/0800

- 4.4 Permission refused at no. 9 Orwell Gardens for the construction of a single storey dwelling with attic rooms, over basement, with new entrance onto Orwell Road and associated site development works all on site to rear. The reason for refusal stated:
- “The vehicular access/egress for the proposed development is located at a sharp bend along Orwell Road. The proposed development would endanger public safety by reason of traffic hazard.”*

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned Objective A: *To protect and/or improve residential amenity.*

5.1.2 **Section 8.2.4.9: Vehicular Entrances and Hardstanding Areas** sets out relevant guidance. Key points to note include:

- *Vehicle entrances and exits shall be designed to avoid traffic hazard for pedestrians and passing traffic. Where a new entrance onto a public road is proposed, the Council will have regard to the road and footway layout, the traffic conditions on the road and available sightlines and will impose appropriate conditions in the interest of public safety. In general, for a single residential dwelling, the maximum width of an entrance is 3.5m.*
- *Proper provision shall be made for sightlines at the exit from driveways in accordance with the requirements in DMURS and as appropriate to the particular road type and speed being accessed.*
- *In areas characterised predominantly by pedestrian entrances and few, if any, vehicular entrances, proposals for driveways and on-curtilage parking will be assessed on their own merits but should be resisted.*
- *Impacts on features like boundary walls and pillars, and roadside grass verges and trees outside properties will require to be considered, and entrances may be relocated to avoid these. Any boundary walls, entrance piers and gates and railings shall normally be finished to harmonise in colour, texture and size to match existing streetscape.*
- *Proposals for off street parking need to be balanced against loss of amenity (visual and physical) and will be considered in light of overall traffic flows and car parking in the vicinity.*

### 5.2. Natural Heritage Designations

5.2.1 The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC located c. 4.5 km to the east of the site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

#### **Eamonn and Patricia Dowling, 1 Orwell Gardens, Orwell Road**

- Consider that the proposed development due to its elevated position and replacement of the existing 2,000mm boundary wall fronting Orwell Road with a 1,000mm high wall would expose adjacent rear gardens to unrestricted overlooking, invasion of privacy and increase in traffic noise. The development would thus be detrimental to the residential amenities of adjoining properties and be incongruous in the streetscape.
- Note that there is considerable traffic volumes on Orwell Road and that a centre island has been installed to restrict traffic to the correct lane. Consider that sightlines from the proposed entrance are deficient and that turning movements from the entrance will be impeded by the island. Refer to previous decision under Planning Authority Reference D04A/0800 where permission was refused for an entrance. Submit that the entrance would seriously endanger public safety by reason of a traffic hazard.
- State that there is no necessity for the additional car parking space and that there is adequate room to the front of the property to accommodate car parking. Consider that the application is a ploy to facilitate the future development of the back garden.

### 6.2. Applicant Response

- Note that the immediate adjoining properties have not lodged an appeal against the decision and, therefore, have accepted the Council's decision that they would not be adversely effected or overlooked. State that they would be happy to accept a condition to provide a 1.8 metre fence around the parking bay to address the appellant's concerns.
- Issues regarding a potential traffic hazard have been addressed by the Transport Planning Section and the proposal is in accordance with DMURS.

- The need for the car parking space is legitimate and the applicant regularly has to park a considerable distance away from the dwelling. Any future development would require a separate planning application.

### 6.3. **Planning Authority Response**

- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

### 6.4. **Observations**

#### **Louise Scally, 9 Orwell Gardens, Churchtown**

- Consider that the development will lead to overlooking of her property and lead to a breach in the security of the property. Note that the existing wall was constructed to a height of 2200mm to 2400mm following a CPO to widen the Orwell Road. The wall was constructed to this design to protect the amenities, security and privacy of existing residents. The reduction in height of the boundary wall will impact negatively on the residential amenity of her dwelling.
- The access will result in a traffic hazard and note that the presence of the traffic island means that any vehicle entering or exiting the site will have to make a significant detour. Refers to previous refusal – Planning Authority Reference D04A/0800.
- Consider that there is no necessity for the car parking space and that this application in addition to that permitted under Planning Authority Reference D18A/0383 conflicts with the decision made in respect of D04A/0800.

### 6.5. **Further Responses**

#### **Eamonn and Patricia Dowling 03.09.2018**

- State that if there was no issue with overlooking the applicant would not have offered to build a 1.8 metre high perimeter wall around the car parking bay.

- Consider that necessary sightlines cannot be achieved and the development will endanger public safety.

## 7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and observation and it is considered that no other substantive issues arise. Appropriate Assessment and EIA Screening also needs to be addressed. The issues can be dealt with under the following headings.

- Principle of Development
- Impact on Residential Amenity
- Traffic Hazard
- Appropriate Assessment
- EIA Screening

### 7.2 **Principle of Development**

7.2.1 The proposed development comprises the construction of a new vehicular entrance and car parking area to serve an existing dwelling house. The dwelling is located at the end of a cul de sac and the existing off street parking area is constrained. In this context, the provision of an off street space to serve the dwelling from the rear is considered acceptable in principle.

7.2.2 I note that permission has recently been granted by the Council (currently under appeal) under Planning Authority Reference D17A/0812 for three vehicular entrances from the Orwell Road to serve a site located to the east of the subject site. In this regard, the principle of new vehicular accesses at this location has previously been accepted by the Planning Authority. There are also vehicular entrances further east serving existing dwellings. In this context, I do not consider the provision of an additional entrance at this location would be visually incongruous in the streetscape.

7.2.3 Concerns have been raised by both the appellant and observer that the purpose of the new access is to facilitate the future development to the rear of the site. I consider however, that any future application for a development to the rear of the



existing dwelling would be subject to a future separate planning application which would be considered on its own merits.

### **7.3 Impact on Residential Amenity**

7.3.1 Objections have been raised to the proposal on the basis that the reduction in the height of the existing boundary wall to facilitate the development would have an adverse impact on the residential amenities of adjacent properties. It is detailed that the existing boundary wall was constructed as part of CPO works previously carried out and that the existing height of c. 2200mm was considered necessary to protect dwellings from adverse impacts of noise and overlooking.

7.3.2 As part of the proposed works new entrance pillars and wall will be constructed along with a new manual sliding gate. The pillars will have a height of c. 1.8 metres and the gate 1.1 metres. Having regard to the height of the new boundary treatment and the distance of this boundary to existing dwellings to the north, I do not consider that any adverse impacts in terms of noise or overlooking will occur. I do not consider that any additional screening is required and I am satisfied that the development will have no adverse impacts on the residential amenities of the area.

### **7.4 Traffic Hazard**

7.4.1 Concerns have been raised that the proposed entrance will result in a traffic hazard and specific reference is made to a previous decision of the Planning Authority to refuse an entrance in proximity under Planning Authority Reference D04A/0800.

7.4.2 As detailed in the report by the Transportation Planning Department, the previous refusal was issued on 2004, prior to the publication of DMURS. Previous guidance would have required sightlines of 70 metres. However, under DMURS, reduced sightlines of 45 metres are acceptable on such urban roads. The applicant has demonstrated that sightlines of 45 metres can be achieved and that there is sufficient room within the proposed driveway/parking area to accommodate 2 vehicles entering the proposed new vehicular entrance in forward gear and exiting onto Orwell Road in a forward gear. There is no objection to the proposal from the Transportation Department.

7.4.3 Having regard to the location of the proposed entrance and the sightlines achievable, I am satisfied that the new entrance would not result in a traffic hazard or obstruction.

## **7.5 Appropriate Assessment**

7.5.1 Having regard to the nature and scale of the proposed development, comprising a vehicular entrance to an existing dwelling house within an established urban area, and the distance to the nearest European site, 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.

## **7.6 EIA Screening**

7.6.1 Having regard to nature of the development comprising a vehicular entrance 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.

## **8.0 Recommendation**

8.1 It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

9.1. Having regard to the location of the development and the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and completed 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. 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.

3. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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 adjoining property in the vicinity.

4. The footpath in front of the proposed new vehicular entrance shall be dished at the road junction in accordance with the requirements of the planning authority and at the Applicant's own expense.

**Reason:** In the interest of pedestrian safety.

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**Erika Casey**  
**Senior Planning Inspector**

**25th September 2018**