



An
Bord
Pleanála

Inspector's Report

ABP-307330-20

Development	RETENTION: The development consists of retention of alterations to existing railings to facilitate vehicular access.
Location	59, Bath Avenue, Sandymount, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2357/20
Applicant(s)	Conor Treacy
Type of Application	Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Conor Treacy
Observer(s)	Trevor & Rena Janes
Date of Site Inspection	21/08/2020
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is located on the southern side of Bath Avenue, a residential street in Dublin 4. The site comprises a two-storey terraced Victorian House with a front garden enclosed by railings and a pedestrian gate.
- 1.1.2. On both sides of Bath Avenue and the adjoining streets there is residential permitted and pay and display parking. There are vehicular entrances at some properties in the area, including the adjoining property to the east side none of which would appear to have been recently constructed.

2.0 Proposed Development

- 2.1.1. On the 26th February 2020 permission was sought to RETAIN alterations to existing railings to facilitate a 2.7m wide vehicular access to 59 Bath Avenue, Dublin 4.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 8th June 2020, the Planning Authority issued a notification of their intention to REFUSE permission for the following reason:

- 1 The proposal for the removal of an on-street car parking space to accommodate a private vehicular access, is contrary to Dublin City Council policy and would reduce the supply of on-street car parking. The proposed development would directly contravene Policy MT14 of the Dublin City Development Plan 2016-2022 which seeks to retain on-street parking as a resource for the city, as far as practicable.

3.2. Planning Authority Reports

- 3.2.1. **Transportation Planning:** The proposed development would result in the loss of one pay & display space. The dropped curb also appears to impact a street tree. The removal of pay & display parking is not supported and is contrary to policy MT14 and section 16.38.9 of the development plan. Recommendation to refuse permission.
- 3.2.2. **Drainage Division:** No objection subject to standard conditions.

3.2.3. **Planning Report:** An off-street front garden parking spot was omitted under condition no. 4 of Planning Authority reg. ref. 3420/18. Notes the recommendation of the Transport Dept. and recommends refusal for a similar reason.

3.3. **Prescribed Bodies**

None on file.

3.4. **Third Party Observations**

3.4.1. Two observations submitted. First raised the restricted nature of parking on Bath Avenue. The second is from the applicant and refutes the submission of the Observer.

4.0 **Planning History**

4.1.1. Planning Authority reg. ref. 3420/18: Planning permission was sought for the alteration/extension of the existing two storey terraced house at 59 Bath Avenue, Dublin 4, D04 CY58, comprising demolition of the existing two storey rear extension and construction of a new three storey and two storey extension to the rear, with alterations to the existing fenestration including provision of 1 no. Velux roof-light to the inner valley roof slope and the provision of a new vehicular entrance and hardstanding to the front garden with associated internal alterations. Condition no. 4 stated:

4. This permission excludes the following elements of the proposal: • A new vehicular entrance and associated hardstanding to the front garden.

Reason: In the interests of clarity and for the avoidance of doubt as to the elements granted permission.

Permission was REFUSED for the provision of a new vehicular entrance and hardstanding to the front garden with associated internal alterations and site development for the following reason:

1. Policy MT14 of the Dublin City Development Plan 2016-2022 seeks to minimise the loss of on-street car parking. Section 16.38 of the Development Plan (on-street car parking) provides for the preservation of available on-street parking where appropriate, and states that there will be a presumption against the removal of on-street car parking spaces. The proposed vehicular entrance would result in

the loss of on-street car parking that is available to the community. The proposed development would, therefore, contravene Policy MT14 of the Development Plan, and would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

- 5.1.1. In the Dublin City Development Plan 2016 -2022 plan, the site is zoned 'Z1' which has the stated objective "to protect, provide and improve residential amenities". Within Z1 zones 'Residential' is a permissible use.
- 5.1.2. **Chapter 16** includes the Development Management Standards and has regard to Design, Layout, Mix of Uses and Sustainable Design.
- 5.1.3. **16.2.2.4** Boundary Walls and Railings: Dublin City Council will seek to ensure that development will not result in the loss or insensitive alteration of characteristic boundary walls or railings. Where appropriate, boundary features will be reinstated. New boundary walls or railings should: Replicate an existing or traditional pattern which is characteristic of the immediate locality Use a design and materials appropriate to the existing or proposed building and street-scene.
- 5.1.4. **Section 16.38.9** 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.
- 5.1.5. **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. Natural Heritage Designations

- 5.2.1. The subject site is approx. 1.1km from the South Dublin Bay and River Tolka Estuary SPA (004024) and the South Dublin Bay SAC (000210).

5.3. EIA Screening

- 5.3.1. Having regard to nature and scale of the proposed development and the urban location of the site there is no real likelihood of significant effects on the environment

arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The applicant has appealed the decision of the Planning Authority to refuse permission to retain the vehicular entrance. The grounds of the appeal can be summarised as follows:

- Off-street parking is required as Bath Avenue is very busy and unloading / loading small children is difficult and dangerous.
- High traffic arises from the Aviva. Gardai often request Bath Avenue residents to move their cars to keep the area clear.
- There is an electricity point at the front of the property which will allow for car charging in the future.
- The railings at the front of the house were refurbished due to poor condition. A central opening was introduced but has not been used for vehicular access. A large planter inside the gates prevents opening.
- The on-street car parking space outside the property is only ever occupied by the applicants car. Permitting the proposed development will have a neutral impact on the availability of spaces.
- The section of on-street car parking ends at the subject site. The removal of one space will have little impact on on-street parking but will ease congestion as it will allow more vehicles to pass. The subject development should be considered a 'public real improvement' as per section 8.5.6 / Policy MT14 of the development plan.
- The use of on-street parking on Bath Avenue is minimal. Large sections of on-street parking are available.
- Of the 76 no. houses on Bath Avenue, 45 no. have off-street parking.

- The proposed development which would facilitate the provision of electric vehicle charging complies with section 2.3.7 of the development plan that seeks to promote sustainable energy technologies. The subject development allows the move towards more sustainable energy resources.
- The nearest EV charging point is 1.3km away at Thorncastle Street Ringsend.
- Regarding the Transportation Dept. report, the subject tree is several feet clear of the proposed dropped kerb.
- The Board is requested to grant permission.

6.2. **Planning Authority Response**

- 6.2.1. None on file.

6.3. **Observations**

- 6.3.1. An Observation has been submitted by no. 65 Bath Avenue. The observation can be summarised as follows:

- Unloading of children from a car can be done safely from on-street parking spots. Having a car cross a footpath will not improve the safety of other pedestrians.
- The charging point was installed by the applicant. The nearest point is 260m away in South Lotts Road.
- There is a shortage of parking in the area. Existing off-street spaces were constructed before the current development plan.
- At certain times there is sufficient parking, at others it is difficult to find a space. Residents, 4 no. public houses, 3 no. restaurants and a supermarket on Bath Avenue all need public parking.
- The appellants arguments, if applied to every house, would leave no public parking on the Avenue.

7.0 **Assessment**

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have

assessed the proposed development and I am satisfied that the single issue is the principle of the proposed development.

7.2. Principle of Development

- 7.2.1. The subject development seeks to retain alterations to existing railings to facilitate the use of the front garden area for car parking. The appellant states that the railings were refurbished as they were in poor condition and during refurbishment they were altered to provide for a 2.7m wide opening. Permission was refused on the grounds that it is DCC policy to discourage the removal of on-street parking to facilitate private off-street parking.
- 7.2.2. The appellant makes the case that as he is the only user of the space outside his house, its removal will have a neutral impact. This submission can not be verified and nonetheless is not sustainable. That the on-street space may currently be used only by the applicant could change at any time. The removal of this space, at a location where public parking is at a premium due to the wide range of commercial and other activities in the area, would be to the detriment of public parking.
- 7.2.3. The appellant makes the case that loading / unloading children from a car on the public road is dangerous and difficult. That is the nature of residential development on Bath Avenue and has always been that case. Residents of the avenue are aware of that fact before they take up residence on the street.
- 7.2.4. With regard to the precedent claimed regarding other dwellings on the street, it should be borne in mind that the policies and objectives relating to vehicular entrances and parking in front gardens at residential property in the preceding statutory development plans were more lenient and favourable than the current policies and objectives. The relevant policies and objectives have changed to a strong presumption against such development in favour of protection of the supply communal on street car parking facilities which are to be retained and maintained as a public resource for the benefit of both residents and parking needs in connection with business and leisure.
- 7.2.5. The appellant states that off-street car parking would facilitate future use of an EV charging station. The installation of EV charging point for off-street parking is undeniably more difficult, however it is not insurmountable and has been achieved

with success in other areas. The private / individual gain derived from facilitating one EV car is not sufficient to outweigh the loss of on-street parking to the wider public.

8.0 Recommendation

8.1. Permission be REFUSED for the following reason:

- 1 The proposed development which is to facilitate a private vehicular entrance involves the loss of on-street parking facilities available to the wider community for daytime use in connection with short stay commercial and leisure needs and evening use by residents in an area in which residential permit parking is available. The proposed development would materially contravene Policy MT14 and Section 16.38.9 of the Dublin City Development Plan 2016-2022, according to which it is the policy of the planning authority to retain on-street parking as a resource for the city and would, therefore, be contrary to the proper planning and sustainable development of the area

Gillian Kane
Senior Planning Inspector

24 August 2020