



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307467-20

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<b>Development</b>	Partial demolition of rear garden wall and provision of a vehicular parking space with an electric vehicle charging point in the rear garden.
<b>Location</b>	30, Grosvenor Road, Rathmines, Dublin 6
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	4261/19
<b>Applicant(s)</b>	David Holland and Elinor Jenkins
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	David Holland and Elinor Jenkins
<b>Observer(s)</b>	Philip O'Reilly
<b>Date of Site Inspection</b>	14 <sup>th</sup> September 2020
<b>Inspector</b>	Irené McCormack

## 1.0 Site Location and Description

- 1.1.1. The subject site is located at no. 30 Grosvenor Road, Rathmines. The site is a mid-terrace period red brick house. The front aspect addresses Grosvenor Road while the rear of the site backs onto Leicester Avenue.
- 1.1.2. On street car parking is provided both to the front and rear of the site. The area is characterised primarily by residential use with some commercial and religious uses.

## 2.0 Proposed Development

- 2.1. The proposed development will comprise the partial demolition of the existing rear garden wall and the provision of a vehicular parking space with an electric vehicle charging point in the rear garden, accessed via a new gated vehicular entrance portal with associated boundary treatment works.
- 2.2. The roadside boundary is 9.392m wide. The proposed vehicular entrance measures approx. 2.8 metres in width. The submitted parking area measures approximately 2.9 metres in depth by 3 metres in width.
- 2.3. The applicant was requested by way of Further Information dated 12<sup>th</sup> December 2019 to revise the vehicular entrance and parking area to comply with the dimensions required by policy MT14 of the development plan and to amend the height of the gate to be more in keeping with the historic character of the area. In their response received 31<sup>st</sup> March 2020 the applicants proposed no amendments stating that there is no other way to accommodate on-street parking other than the original proposal.

## 3.0 Planning Authority Decision

### 3.1. Decision

#### **REFUSED for the following reason:**

Having regard to the substandard parking area provision and the resultant loss of on-street car parking, it is considered that the proposed development is contrary to Section 16.10.18 and Policy MT14 of the Dublin City Development Plan 2016 – 2022 and would set an undesirable precedent and endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

### 3.1.1. Planning Reports

The initial Planning Officer's reports notes the zoning objectives relating to the proposed development. The report sets out that proposed new vehicular access will result in the loss of on street car parking and any loss on street parking is subject to a fee. It is set out that there is approximately 44% permit uptake on Leicester Avenue and there is no provision on the street for charging points. It is further stated that many properties on Grosvenor Road have added rear vehicular entrances onto Leicester Avenue. The Planning Officer's was of the opinion that the loss of an on-street car parking space is acceptable in this circumstance subject to a revised design and layout requested as part of Further Information dated 12<sup>th</sup> December 2019.

In their response received 31<sup>st</sup> March 2020 no amendments were proposed. Accordingly, it was considered that the rear garden had insufficient depth to accommodate a fully compliant car parking space and the applicant had refused the Planning and Transportation Department's request to amend the proposal accordingly. In addition, the proposed vehicular entrance would result in the loss of on-street car parking. Noting the applicants reference to precedent examples along the street, it was considered that none of these were reflective of the proposed development in terms of the layout and dimensions of the car parking space. Refusal recommended.

### 3.1.2. Other Technical Reports

**Transport Planning Division:** Report dated 2<sup>nd</sup> December 2019 sought additional. Final report dated 8th May 2020 sets out that the proposed parking area is insufficient in size and would not facilitate in-curtilage parking of a standard sized car without impacting on the footpath. In addition, the proposed vehicular entrance would result in the loss of on-street car parking and is unacceptable in terms of both non-compliance with the Development Plan standards, section 16.10.18 and Policy MT14, with regard to insufficient car parking area provision, the loss of on-street car parking, and also in the creation of a traffic hazard and the setting of a poor precedent.

**Drainage Division** – Report dated 20<sup>th</sup> November 2019 sets out no objection.

### 3.2. Prescribed Bodies

None

### 3.3. Third Party Observations

One submission was received in relation to the development. A brief summary of the issues raised in the submission to the Planning Authority are set out below

- The height of the proposed gate should not exceed the existing rear wall height.
- All works proposed should be in keeping with the character and setting of this Residential Conservation Area.
- The entrance as proposed is not in keeping with the traditional pattern of development of the area.

## 4.0 Planning History

### *Site*

DCC Reg. Ref. 3708/16 – Planning permission granted in 2016 for renovation and extension works.

## 5.0 Policy Context

### 5.1. Development Plan

5.2. Dublin City Council Development Plan 2016-2022.

5.2.1. The zoning objective relating to the site is land use zoning objective Z2 “to protect and/or improve the amenities of residential conservation areas”.

5.2.2. In terms of Conservation Areas, Dublin City Council seek to ensure the development proposals within all Architectural Conservation Areas and conservation areas complement the character of the area and comply with development standards.

### *Conservation Areas*

**Policy CHC4:** To protect the special interest and character of all Dublin’s Conservation Areas (11.1.5.4). Development within or affecting all conservation areas will contribute positively to the character and distinctiveness; and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

**Policy CHC8:** To facilitate off-street parking for residential owners/occupiers where appropriate site conditions exist, while protecting the special interest and character of protected structures and Conservation Areas.

**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.

### **Section 16.10.18 – Parking in the Curtilage of Protected Structures and Conservation Areas.**

Proposals for limited off street parking will be considered where the following criteria can be met:

- Every reasonable effort is made to protect the integrity of the protected structure and/or conservation area
- 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
- Car parking bays shall be no greater than 5m x 3m metres wide.
- The proposed vehicular entrance should, where possible be combined with the existing pedestrian entrance so as to form an entrance no greater than 2.6m 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.

### 5.2.3. Chapter 16 – On-Street Car 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.

Appendix 5 Section 5 of the Dublin City Development Plan 2016 – 2022 states:

Road and Footpath Standards for Residential Development of the development plan states that ‘where driveways are provided, they shall be at least 2.5m or, at most, 3.6m in width, and shall not have outward opening gates’. Reference is also made to the design standards set out in the planning authority’s leaflet ‘Parking Cars in Front Gardens’.

#### *Parking Car in Front Gardens*

Dublin City Council have produced a guidance leaflet with regards to the provision of car parking in front gardens. The information leaflet sets out:

#### *Basic Dimensions and Surfacing*

Generally, the vehicular opening proposed shall be at least 2.5metres or at most 3.6 metres in width and shall not have outward opening gates. Narrower widths are generally more desirable and maximum widths will generally only be acceptable where exceptional site conditions exist.

The basic dimensions to accommodate the footprint of a car within a front garden are 3 metres by 5 metres. It is essential that there is also adequate space to allow for manoeuvring and circulation between the front boundary (be it a wall, railing or otherwise) and the front of the building. A proposal will not be considered acceptable where there is insufficient area to accommodate the car safely within the garden, and to provide safe access and egress from the proposed parking space, for example near a very busy road or a junction with restricted visibility.

#### Summary Principles

1. The front garden shall still give the impression of being a front garden.
2. New work to the front boundary should be sympathetic to that existing and to the street.

3. Where a gate pier or gate support has to be removed, it should be reused or reproduced in a new position.
4. Considerable care should be taken with the design and layout and qualified professional advice is desirable.
5. The Planning Department and Roads & Traffic Department of Dublin City Council should be consulted at an early stage and before a planning application is Submitted.

### 5.3. **Natural Heritage Designations**

None

### 5.4. **EIA Screening**

- 5.5. The proposed development is not of a class for the purpose of EIAR. The nature and scale of the development would not result in a real likelihood of significant effects on the environment

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

- It is set out that the purpose of the planning application is to provide electric vehicle parking within the property boundary.
- The proposal is supported by local precedent for vehicular access to rear gardens in neighbouring properties no.'s 32a, 32b and 33 Grosvenor Road.
- It is set out that the use of smaller electric cars accords with the principles of sustainability and sustainable transport.
- There is no on-street charging available locally
- It is unreasonable to expect the applicant to sacrifice their limited front and rear garden areas to provide a larger parking space.
- It is set out that the development complies with Section 16.10.18 of the development plan in so far as the development is located to the rear thereby protecting the streetscape, iron railing and steps to the property and the character of Grosvenor Road.

- It is argued that sufficient space has been demonstrated on site to accommodate small 'city style' electric vehicle.
- It is set out that access and egress to the site will not give rise not a traffic hazard and accords to the design criteria set out in Chapter 16. The entrance is 2.8m wide, the proposal retains as much of the soft landscape as is possible and the car parking footpath is not greater than 3 metres by 5 metres.
- It is argued that overflow parking for bus priority measures on the R114 (Rathgar Road) may limit available car parking in the vicinity of the site.
- It is set out that the reason for refusal citing MT14 is unusual as the initial planner's report stated that the loss of on-street car parking "is acceptable in this circumstance"
- The submission concludes that the development plan states maximum standards for spaces which the proposal complies with, and the minimum standards referred to are for commercial, retail and multi-unit developments.

## 6.2. Planning Authority Response

None

## 6.3. Observations

One observation was received from Mr. Philip O'Reilly, 18 Grosvenor Place, Rathmines. The submission sets out that the decision of Dublin City Council was in accordance with development plan policies.

## 7.0 Assessment

### 7.1. Introduction

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Design, Layout and Traffic Hazard
- Appropriate Assessment



The site is located within an area zoned Z2 “to protect and/or improve the amenities of residential conservation areas” Section 16.10.18 – Parking in the Curtilage of Protected Structures and Conservation Areas provides limited off-street parking subject to certain criteria. As such the proposal is acceptable in principle, subject to the detailed considerations below.

## **7.2. Design, Layout and Traffic Hazard**

- 7.2.1. The applicant is seeking to provide vehicular access and a car parking space to the rear of the site with access from Leicester Avenue, a two-lane carriageway with on street car parking on both sides. The layout provides for the demolition of an existing shed on site and the modification of the existing boundary by removing c. 3.7m of the existing boundary wall to provide a new vehicular entrance gate with brick portal surround. The entrance gates measure 2.8m wide by 2.4m high. The internal parking space measures 3.030m wide by 2.960m depth.
- 7.2.2. The planning authority recommended refusal referring to the substandard parking area provision and the resultant loss of on-street car parking. The development was considered contrary to Section 16.10.18 and Policy MT14 of the Dublin City Development Plan 2016 – 2022 and would set an undesirable precedent and endanger public safety by reason of traffic hazard.
- 7.2.3. In the context of the subject site, Section 16.10.18 *Parking in the Curtilage of Protected Structures and in Conservation Areas* of the development plan provides for on-site car parking where certain criteria are met, in particular, where there is no significant loss of visual amenity and historic fabric. Policy MT14 seeks 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.
- 7.2.4. Furthermore, Appendix 5 Section 5: Road and Footpath Standards for Residential Development of the development plan states that ‘where driveways are provided, they shall be at least 2.5m or, at most, 3.6m in width, and shall not have outward opening gates’. This is reinforced in the design standards set out in the planning authority’s leaflet ‘Parking Cars in Front Gardens’. I note the planning authority’s guidance sets out the basic dimensions to accommodate the footprint of a car within a front garden as 3 metres by 5 metres.

- 7.2.5. The appeal submission sets out that there are a number of existing properties on Leicester Avenue with onsite parking. Site inspection indicated that this is in fact the case. In this regard, I note the planning authority in their initial assessment accepted that a vehicular entrance could be accommodate on the site subject to a revised design to ensure sufficient onsite car parking depth. I note the applicant was requested by way of Further Information dated 12<sup>th</sup> December 2019 to revise the vehicular entrance and parking area to comply with the dimensions required by the development plan and to amended the height of the gate to be more in keeping with the historic character of the area. However, the response received from the applicants proposed no amendments. Hence, a recommendation to refuse planning permission was issued by the planning authority.
- 7.2.6. As part of the applicants appeal submission the applicants argue that the purpose of the planning application is to provide electric vehicle parking within the property boundary and that the proposal is supported by local precedent for vehicular access to rear gardens in neighbouring properties. It is further argued that use of smaller electric cars accords with the principles of sustainability and sustainable transport and there is no on-street charging available locally and it is unreasonable to expect the applicant to sacrifice their limited front and rear garden areas to provide a larger parking space.
- 7.2.7. It is applicant's contention that the development complies with Section 16.10.18 of the development plan in so far as the development is located to the rear thereby protecting the streetscape character of Grosvenor Road. It is set out that access and egress to the site will not give rise not a traffic hazard and accords to the design criteria set out in Chapter 16 of the development plan -the entrance is 2.8m wide, the proposal retains as much of the soft landscape as is possible and the car parking footprint is not greater than 3 metres by 5 metres.
- 7.2.8. The Planning Authority's decision to refuse permission for the proposed development was partially based on the inadequate depth of the site to accommodate the parking of a standard car on site and the potential for a car to overhang the public footpath. The grounds of appeal assert that the standards do not apply in this instance as it is proposed to park an electric vehicle on site and the site depth can accommodate certain types of electric vehicles.

- 7.2.9. The minimum requirements established by the planning authority are considered essential to ensure that there is adequate space to allow for manoeuvring and circulation between the front boundary (be it a wall, railing or otherwise) and to provide safe access and egress from the proposed parking space.
- 7.2.10. Whilst, I note the appellants intention to use the site for the parking of an electric vehicle, a planning condition controlling the size and type of car that can be parked on site is not an enforceable planning condition and therefore such as condition cannot be applied. I am satisfied that there is insufficient depth on site to accommodate the parking of a vehicle on site. The layout does not provide reasonable access to the vehicle and the residential property no. 30 Grosvenor Road in so far as you would not be able to walk around the car once parked on site. You would have to round the car onto the public footpath to access the property. It is also unclear how that gate would close when there is a car parked on site. Any vehicle larger than the 2.960m identified by the appellant on the drawings submitted would overhang the site and onto the footpath causing an obstruction to the public.
- 7.2.11. In terms of the impact on the character of the conservation area Policy CHC8 of the Development Plan aims to facilitate off-street parking where appropriate site conditions exist, while protecting the special interest and character of conservation areas. I note the precedent established by the adjoining development and that the works proposed are located to the rear of the site. I have no issue with the size of the opening proposed, however the increase in the height of the boundary wall as a result of the introduction of the brick portal serves to highlight the entrance more and I consider this an inappropriate design response in the context of the conservation status of the site.
- 7.2.12. I further note that on the day of my site inspection there was ample car parking available both to the front and rear of the site. I have no issue with the loss of on-street carparking to accommodate the development.
- 7.2.13. In conclusion, I consider that design and layout of the car parking is not of adequate size to accommodate a parked car and may result in the overhanging of a parked car on the public footpath. This would cause obstruction of the footpath, forcing pedestrians onto the carriageway and would interfere with pedestrian safety and represent a pedestrian and traffic hazard and for this reason the development is

contrary to Section 16.10.18 of the development plan and in the design standards set out in the planning authority's leaflet 'Parking Cars in Front Gardens'. The proposed development should be refused for this reason.

#### **7.2.14. Appropriate Assessment**

Having regard to the minor nature and small scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

I recommend that planning permission for the proposed development should be refused for the reason and considerations, as set out below.

### **9.0 Reasons and Considerations**

The proposed provision and use of a car parking space in the rear garden of no. 30 Grosvenor Road by reason of design and the insufficient depth of site to accommodate a parked car, would interfere with pedestrian and vehicular traffic movements and endanger public safety by reason of traffic hazard and would be contrary to Section 16.10.18 of the Dublin City Development Plan 2016 – 2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

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Irené McCormack  
Planning Inspector

22<sup>nd</sup> September 2020