



An
Bord
Pleanála

Inspector's Report

ABP-307918-20

Development	Permission to widen existing pedestrian entrance to create a vehicular access driveway.
Location	21, Kinvara Drive, off Navan Road, Dublin 7.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	2735/20
Applicant(s)	Colm O'Conghaile
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party V. Refusal
Appellant(s)	Colm O'Conghaile
Observer(s)	None
Date of Site Inspection	22 nd October 2020
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The appeal site is located on an existing residential street, Kinvara Drive, which is located to the north of the Navan Road and approximately 0.5km north of Phoenix Park. The site has a stated area of 230sq m and has a terraced two storey dwelling located on it.
- 1.2. Kinvara Drive is a suburban street with terraced two storey dwellings located along each side. All the dwellings originally had front gardens and boundary walls which ran parallel to the roadway, however, today a lot of variation can be seen along the street, with several of the sites in the vicinity with off street car parking provided in now surfaced front yards with direct vehicular access onto Kinvarra Drive. There are no parking restrictions, metered parking or permit parking requirements along Kinvarra Drive.
- 1.3. A number of mature deciduous trees are planted along the Drive, which adds to the character of this residential street. One of these trees is located directly to the front of the appeal site, at the mid-point along the 6m wide site, on the grass verge between the footpath and the roadway. An existing pedestrian gate provides access via a concrete path to the front door of the dwelling on site and the remainder of the garden is lawned.

2.0 Proposed Development

- 2.1. The proposed development is to comprise:
 - Permission to widen existing pedestrian entrance from existing 1.06m to 3.6m to create a vehicular access driveway:
 - Works to include removal of existing tree on grass verge to front of house:
 - New dish proposed in footpath onto roadway; and
 - New 1m tall pillar to match existing.
- 2.2. As part of the current appeal the applicant proposes to reduce the vehicular entrance opening to 3m in width and to now plant a new semi-mature tree (paid for by the applicant) at the midpoint between no. 21 and no.23 Kinvara Drive. These proposed

changes are shown on a revised drawing which was submitted as part of the appeal documentation.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons:

The proposed development would require the removal of the mature tree set in front of the property. The loss of the tree to the street is not justified, given the lack of parking restrictions on the street, would seriously injure the residential amenities of property in the vicinity and would set an undesirable precedent for similar sites in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation to refuse permission in the Area Planner's report reflects the decision of the Planning Authority, the main points can be summarised as follows:

- The area planner notes the planning precedence in the area when it comes to existing vehicular entrances similar to that proposed.
- It is noted that Section 16.38 of the current Development Plan refers to a predisposition to consider off-street parking proposals except where *“residents are largely reliant on on-street car parking and there is a strong demand for such parking”*. The area planner notes that there is no designated on street car parking on Kinvara Drive and therefore there is no objection in principle to the provision of off-street parking at this location in principle.
- The proposed vehicular entrance to the front of the dwelling is to be 3.6m in width, which is the widest allowable under development plan standards (Appendix 5 – ‘Road Standards for Various Classes of Development’ of the

Dublin City Development Plan 2016-2022). This width is considered acceptable when comparing same to others along the street.

- The proposed gravel finish, to be used on the driveway, is considered acceptable in terms of allowing for surface water run-off to be maintained within the subject site.
- An existing street tree, which is proposed for removal as part of the proposal, to facilitate the 3.6m wide entrance, is located in a central location to the front of the property.
- The area planner notes the DCC Parks Division's comments regarding this tree and states that even if the proposed vehicular entrance is reduced to the minimum required width of 2.5 metres, the construction of the dished entrance will entail the removal of a length of a minimum of 250 cm of grass verge, and will entail the removal of roots which will have a negative impact on the street tree, leading to decline and possible windthrow. It is therefore not an option in this application to condition the reduction of the width of the vehicular entrance without the resulting loss of the street tree.
- Based on the Development Plan's policies, objectives, and standards and the provisions of the Dublin City Tree Strategy, the area planner therefore recommended refusal.

3.2.2. Other Technical Reports

- DCC Parks and Landscapes Service – Report dated 09/06/2020 – noted that there is a public street tree to the front of the property and that it is proposed to remove the public street tree in order to facilitate the work. The report goes on to state that even if the entrance was to be reduced to the minimum required width of 2.5m, the roots of the tree would still be damaged due to the works involved to construct the dished footpath and this would lead to the decline and possible windthrow of the tree. Parks and Landscape service therefore objected *'to the proposed widening of the existing dished area as this will entail the decline and removal of the street tree'*.

- DCC Drainage Division – Report dated 19/06/2020 – No objection to proposed development subject to conditions.

3.3. Prescribed Bodies

Irish Water – No response.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. No planning history on site.

4.2. Planning history on nearby sites:

- P.A. Ref. 2768/19 – 2019 - 27 Kinvara Drive. Permission granted to widen the existing pedestrian entrance to create a vehicular access & driveway to front. Condition no.2 was attached which stated the following:

2. (a) During the construction phases, the proposed development shall comply with the British Standard 5837:2012 'Trees in relation to design, demolition and construction recommendations'.

(b) No works or excavation including the dishing of the public footpath shall be undertaken within 2.5m of the trunk of the street tree located to the front of No. 27 Kinvara Drive.

Reason: In the interests of proper planning and sustainable development and for the protection and maintenance of existing trees within the public realm.

- P.A. Ref. 3723/17 – 2017 - 29 Kinvara Drive. Permission granted to widen the existing pedestrian entrance to create vehicular access & driveway to front.
- P.A. Ref. 3680/17 – 2017 - 34 Kinvara Drive: Permission granted for attic conversion with dormer window to rear for study use, also permission

sought for new vehicle access to front driveway and all associated site works. Condition no. 6 stated the following:

6. The following requirements of the Environment and Transportation Department shall be complied with:

a. Prior to the commencement of works to the proposed driveway, the applicant shall contact the Parks Departments at Dublin City Council to liaise with them regarding the existing tree on the public footpath in front of the application site.

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Reason: In the interest of orderly development.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative Development Plan is the Dublin City Development Plan 2016-2022. Land use zoning objective Z1 ‘to protect, provide and improve residential amenities’.

5.1.2. Chapter 8 Movement and Transport

- **Policy MT14** of the Dublin City Development Plan 2016 – 2022 is 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.
- **Policy MT16** - To control the supply and price of all parking in the city in order to achieve sustainable transportation policy objectives.

5.1.3. Chapter 10 Green Infrastructure, Open Space & Recreation

Section 10.5.7 Trees

- **Policy GI28:** To support the implementation of the Dublin City Tree Strategy, which provides the vision for the long-term planting, protection and maintenance of trees, hedgerows and woodlands within Dublin City.

5.1.4. Chapter 16 Development Standards: Design, Layout, Mix of Uses and Sustainable Design

Section 16.3.3 Existing Trees and their protection states that:

- *‘Dublin City Council will consider the protection of existing trees when granting planning permission for developments and will seek to ensure maximum retention, preservation and management of important trees, groups of trees and hedges.*
- *The Dublin City Tree Strategy 2016 provides the vision and direction for long-term planning, planting, protection and maintenance of trees, hedgerows and woodlands within Dublin city, and is a material consideration in the determination of planning applications.*

This section also states the following which is particularly important in the case of the current appeal:

- *The design of vehicular entrances that impact on adjacent trees will need to be considered to avoid conflicts with street trees. Where conflict is unavoidable and where a tree, located on street, requires removal to facilitate a new or widened vehicular entrance and cannot be conveniently be relocated within the public domain, then a financial contribution will be required in lieu.*

Section 16.38 Car Parking Standards states that *" There is a predisposition to consider residential off-street car parking, subject to design and safety criteria, particularly along Quality Bus Corridors (QBCs) and to facilitate traffic management proposals. However, proposals for off-street parking in the front gardens of single dwellings in predominantly residential areas will not be permitted where residents are largely reliant on onstreet car parking and there is a strong demand for such parking.*

Section 16.38.9 Design Criteria 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’.*

5.1.5. Appendix 5 Roads Standards for Various Classes of Development

The following standards of the Dublin City Development Plan are applicable:

The guidance 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. The design

standards within Dublin City Council's leaflet 'Parking Cars in Front Gardens' is also applicable to the proposed development.

5.1.6. **Dublin City Council Tree Strategy (2016-2021)**

Section 3.3.3 Design of Vehicular Access states that *'in the design of vehicular entrances, the impact on adjacent trees will need to be considered. Entrances should be designed to avoid conflict with street trees.*

Where conflict is unavoidable and where a tree, located on-street, requires removal to facilitate a new or widened vehicular entrance and cannot be conveniently relocated within the public domain then a financial contribution will be required in lieu'.

5.2. **Natural Heritage Designations**

None relevant.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal, as raised in by the first party appellant can be summarised as follows:

- The applicant states that they are willing to pay for the removal of the existing tree and the planting of a new semi mature tree nearby.
- The applicant has submitted a new drawing as part of the appeal documentation showing the preferred location of the new tree on the party line between no.21 and no.23 Kinvara Drive.
- The applicant states that by planting this new tree the residential amenity of the street would not be affected.
- The applicant states that there are 38 houses on Kinvara Drive of which 24 have a driveway. No trees had to be removed to allow access to any of these driveways, as none of the dwellings had a tree directly in the middle of there property line like the applicant's site. He therefore does not believe that a

precedent will be set by removing the existing tree and that this is a unique situation.

- Due to the demand for parking along both sides of the street, the applicant states that if you are a two car household like his, you cannot secure car parking for both cars directly outside your house. He also states that damage to car mirrors etc. is not uncommon due to cars being parked on both sides of the road.

6.2. Planning Authority Response

- A response was received from the Executive Parks Superintendent/ Tree Officer on 27th August 2020 which outlined the following:
 - It is not advisable to have a private individual planting a tree on publicly owned lands.
 - There is no room for the sustainable planting of a tree at the location selected by the applicant as the whole length of the grass verge in front of number 23 has been concreted. Any tree planted at this location will either slowly decline or its roots will damage the footpath, concrete area and ditched area in the future.
 - If compensation is recommended, then this should be calculated in accordance with a recognised tree valuation system (Capital Asset Value for Amenity Trees (CAVAT)).

6.3. Observations

- None

7.0 Assessment

- 7.1. As part of the documentation submitted with the appeal, a revised drawing now shows that the applicant proposes to widen the existing pedestrian entrance on site from 1.06m to 3 metres (previously 3.6m) to facilitate a reduced new vehicular entrance. The applicant has proposed this reduction in width, in the hopes of accommodating the planting of a new tree on the grass verge to the front of the

property. The applicant is aware that the existing semi-mature deciduous tree, located at a mid-point on the grass verge, will require removal to facilitate the proposed vehicular entrance. The applicant states in their appeal that they are willing to pay for the removal of this tree and the planting of a new semi-mature tree at the location indicated on the revised plans submitted with the appeal. The location of this proposed new tree will be directly in front of the party line boundary wall separating no. 21 and no.23 Kinvara Drive.

- 7.2. From an examination of the information submitted and a site visit, I note that the proposed planting location of the replacement tree is adjacent to a newly concreted area to the immediate north. Hard surfacing then extends along the whole length to the front of no.23 Kinvara Drive. This area is therefore wholly unsuitable for planting this tree, as its survival would most certainly be compromised by the lack of available grass verge and available soil for root development. In addition, any roots that may survive and grow could lead to future damage to the adjacent footpath and nearby proposed dished kerbing of the new vehicular entrance.
- 7.3. As a replacement semi-mature tree at this new location is not viable, the question then needs to be asked, if the loss of a street tree to provide for a new entrance and off streetcar parking at no. 21 is justified. It should firstly be noted that Kinvara Drive has a number of mature deciduous trees located along both sides of the street at various intervals, the trees range in age and height and add to the character of this suburban residential street and the residential amenity of its residents. Kinvara Drive provides for unrestricted on-street carparking along either side of the roadway. While I note the applicant states that at times on-street parking for both cars belonging to the household, may be unavailable outside his property, I do not believe this is an adequate reason to justify the need for off street carparking at his property, in particular in the context of losing a mature street tree.
- 7.4. It is therefore my opinion that the removal of this tree, along this urban street, would result in a negative impact on the residential amenities and character of the area and would conflict with the protective measures outlined under Policy GI28 and Section 16.3.3 of the development plan and the Dublin City Tree Strategy 2016 which seeks to ensure the maximum retention of such trees where possible. Therefore, it is not considered that the removal of the tree at this location is merited in order to provide

this additional entrance and off-street parking, in particular as unrestricted and unmetered on-street car parking is available.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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.

8.0 **Recommendation**

- 8.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

The proposed development would require the removal of a mature tree on Kinvara Drive, the replacement of same is not considered feasible and therefore the loss of the street tree would be considered to have a negative impact on the character of the streetscape and attractiveness of the area. In addition, given the fact that Kinvara Drive currently has unrestricted on-street parking available, the need for off-street carparking on the appeal site is not considered justified. The proposed development would, therefore, conflict with Section 16.3.3 and Policy GI28 of the Dublin City Development Plan 2016-2022 and the Dublin City Council Tree Strategy (2016-2021) which seek to protect and retain street trees where possible. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Máire Daly
Planning Inspector

10th November 2020