



An
Bord
Pleanála

Inspector's Report

ABP-308832-20

Development	Creation of a vehicular access to include, dished footpath and kerb, new entrance with inward opening gates and a permeable paving and gravel finish.
Location	23, Serpentine Avenue, Ballsbridge, Dublin 4, D04 E4Y9
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	WEB1627/20
Applicant(s)	Robert Watson
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Robert Watson
Observer(s)	None
Date of Site Inspection	13 th February 2021
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 218sqm comprises a 2 storey brick fronted terraced property with a front garden area with cast iron railings and a low granite plinth wall, with a pedestrian gate fronting onto Serpentine Avenue. The site is opposite the former AIB headquarters (currently being redeveloped) on Merrion Road. Serpentine Avenue has permit parking at this location on both sides of the road. The adjoining property to the north at No.25 Serpentine Avenue has a vehicular entrance. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail

2.0 Proposed Development

- 2.1. Planning permission is sought for the creation of a vehicular access to include, dished footpath and kerb, new entrance of max. 3m with inward opening gates and a permeable paving and gravel finish.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued a notification of decision to **refuse** permission for reason of loss of on street parking as follows:

1) The proposed development would result in a loss of on-street parking which would reduce the supply available to residents on the street and in the wider area and as such would be contrary to 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. The proposal would, therefore seriously injure the amenity of property in the vicinity and as such would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- The **Case Planner** noted the report of the DCC Transportation Division (see below) to refuse permission together with 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. Recommended that permission be refused. The recommendation reflects the notification of decision to refuse permission issued by DCC.

3.2.2. Other Technical Reports

- **Transportation Division** – Raised concerns regarding the loss of a section of the existing pay & display parking bay on Serpentine Avenue and therefore recommended that permission be refused.
- **Drainage** - No objection provided subject to compliance with specific requirements set out in the report.

3.3. Prescribed Bodies

3.3.1. None

3.4. Third Party Observations

3.4.1. None

4.0 Planning History

- 4.1. There is no evidence of any previous appeal on this site and no planning history has been made available with the appeal file. It is noted that there was a previous appeal to the south of the appeal site comprising the partial demolition of a building and construction of 2 houses to include off street car parking that may be summarised as follows:

- **ABP 248883 (Reg Ref 2139/17)** – In 2017 Dublin City Council granted for the redevelopment of No 17 Serpentine Avenue, Dublin 4 as two mid terrace houses with off street car parking for each dwelling. Following a third party appeal the Board granted permission subject to 10 no conditions.

- 4.1.1. I note from the report of DCC Transportation Division that *there are two vehicular entrances at 17A and 17B Serpentine Avenue which were approved under Reg. Ref.*

2139/17 to replace an existing, established wide vehicular entrance serving No. 17 Serpentine Avenue.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the **Dublin City Development Plan 2016-2022**. The site is within an area zoned **Z1 - Sustainable Residential Neighbourhoods** where the land use zoning objective is *to protect, provide and improve residential amenities*. Policies relevant to this appeal are as follows:

- **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 16.38.9** states that *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 – ‘Road Standards for Various Classes of Development’** is the relevant section when assessing applications for driveways / vehicular entrances. It sets out standards for roads and footpaths and includes driveways. 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.

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development comprising the creation of a residential vehicular access and off street parking in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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 first party response to the appeal has been prepared and submitted by G Davenport Architecture & Design on behalf of the applicant and may be summarised as follows:

- **Loss of On-Street Parking** - The *“loss of on-street parking which would reduce the supply available to residents on the street”* is simply not correct. As the applicant is a resident of the street and avails of one of the on street spaces if they now park off street here is no need for on street car parking space.
- **Policy MT14** – This policy does not apply to this site as it relates to loss of parking due to transport, new development and public realm improvements, none of which apply in this case and therefore the scheme cannot be considered contrary to it. With regard to Section 16.38.9 of the Development Plan submitted that this area is predominantly residential and therefore not a priority.
- **Amenity** - Serious injury to amenity of property in the vicinity is unsupported by planning legislation, highly misleading and predicated on a presumption that the removal of one in 30 car parking spaces along this stretch of residential roadway would seriously injure the amenity of the property in the vicinity. There are no policies or objectives in the Development Plan that draw parallels between availability of on-street car parking and the sustainable development of that area.
- **Demand for Off-Street Parking** – What is evident from the street views attached (2009 – 2019) is the gradual increase in cars parking along this stretch of road. Compared to 2009, there are at least 80% more cars parked along this stretch in 2019. This increase cannot be the result of residential changes in the 15 dwelling houses along this stretch, this is clearly an increase in non-local parking. In this case it would be incorrect to assume that there is a strong demand by local residents for parking.

- **Reason for Application** – The motivation is the applicant's inability to predict when and if a car parking space will be available for use within a reasonable proximity of their house due to non-residential practises. Noted that the use of parking apps has increased the incidence of longer stay parking and effectively locked parking spaces along the street for much longer periods that what was routine 5 to 10 years previously.

6.2. **Planning Authority Response**

6.2.1. None

6.3. **Observations**

6.3.1. None

6.4. **Further Responses**

6.4.1. None

7.0 **Assessment**

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Loss of On-Street Parking
- Traffic Safety
- Appropriate Assessment
- Other Issues

7.2. **Principle**

7.2.1. Under the provisions of the Dublin City Development Plan 2016 – 2022 the site is wholly contained within an area zoned Z1 - Sustainable Residential Neighbourhoods

where residential development such as the creation of a vehicular access to form off street residential car parking is acceptable subject to compliance, with the relevant policies, standards and requirements set out in the current development plan.

7.3. Loss of On-Street Parking

- 7.3.1. Dublin City Council issued a notification of decision to refuse permission as the proposed development would result in a loss of on-street parking which would reduce the supply available to residents on the street and in the wider area and would be contrary to Policy MT14 of the Dublin City Development Plan 2016-2022. This decision is based on the report and recommendation of DCC Transport Division to refuse permission.
- 7.3.2. There are approximately 15 no residential properties along this section of Serpentine Avenue, a small number of which have off street car parking with the reminder served by on street parking. The provision of the vehicular entrance from Serpentine Avenue would result in the loss of 1 no. pay and display and permit parking bay together with the relocation of parking signage in order to achieve access. However, as the proposal is to serve an existing resident I do not consider that its loss would reduce the supply available to residents on the street. In my view the more pertinent matter to address is whether the proposal is contrary to Policy MT14 which seeks to *minimise loss of on street car parking*.
- 7.3.3. Serpentine Avenue is not located within a shopping district nor is it within the critical Zone 1 Parking area (Map J Vol 3 of the Development Plan) of the city where car parking is at a premium. I refer to Section 16.38.9 of the Development Plan and consider that this area cannot be described as “predominately residential”. Rather Serpentine Avenue and the immediate area is characterised as mixed use with office, commercial, recreational, retail and residential all in close proximity. It was observed on day of site inspection that adjoining apartment schemes have off-street car parking and do not appear to rely on this section of Serpentine Avenue for parking.
- 7.3.4. Further, as pointed out by the applicant, sustainable growth in the city has been linked in the current Development Plan to a reduction of on-street car parking and the introduction of more quality bus corridors, cycle lanes and greenways (Objective 16.38.9 refers) where the expectation and reliance on on-street car parking to serve

wider users, other than immediate residents is decreasing. In this context I would conclude that while there are always pressures for parking in urban areas the loss of one on street car parking space in lieu of off street parking cannot be considered to be contrary to Policy MT14 in this case. It is recommended that the decision to refuse permission be set aside and permission granted.

7.4. Traffic Safety

- 7.4.1. Having regard to the restricted nature of the front garden it is noted that a car will have to park at an angle in order to park within the driveway area. Given the location of the appeal site within an established inner city residential neighbourhood I am satisfied that the vehicular movements generated by the proposed development would not have a material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. I am satisfied that to permit this development will not result in the creation of a traffic hazard.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development, within an established urban area, and its 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. Other Issues

- 7.7. **Development Contribution** – I refer to the Dublin City Council Development Contribution Scheme 2020-2023. Section 11 it sets out development that will not be required to pay development contributions. It is noted that “residential ancillary car parking” is exempt from payment. While the works described in the public notices relate to the creation of a vehicular access and associated works it remains that these works are required to provide off street car parking that is ancillary to the parent house. Accordingly, I am satisfied that these works are exempt from the payment of a Section 48 Development Contribution.

8.0 Recommendation

- 8.1. I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be **GRANTED** for the following reasons and considerations.

9.0 Reasons and Considerations

- 9.1. Having regard to the land use zoning of the site for residential development in the Dublin City Development Plan 2016-2022, to the established pattern and character of development in the area, it is considered that, subject to compliance with the condition set out below, the proposed vehicular access, would not affect the character of the surrounding streetscape on Serpentine Avenue and would be acceptable in terms of traffic safety and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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.</p> <p>Reason: In the interest of clarity</p>
2.	<p>Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional</p>

	<p>circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
3.	<p>a) Prior to commencement of the proposed development, the Developer shall arrange (with Dublin City Council) for the removal of the “Pay and Display” parking bay / bays and associated signage in front of No 23, Serpentine Avenue, as a result of the proposed new vehicular entrance. Please note that these works shall be arranged at the Developers own expense and in accordance with the terms and conditions of the Planning Authority</p> <p>b) The footpath in front of the proposed new vehicular entrance shall be dishd and strengthened at the Developers own expense including any moving / adjustment of any water cocks / chamber covers and all to the satisfaction of the appropriate utility company and Planning Authority. With regards to the dishing and strengthening of the footpath the Developer shall contact Dublin City Council to ascertain the required specifications for such works and any required permits.</p> <p>c) The Developer shall ensure that the new footpath dishing shall not interfere with the roots of the existing tree, which is located in close proximity to the proposed new vehicular entrance.</p> <p>d) The Developer shall ensure that the proposed redesigned driveway / parking area shall be constructed with sustainable urban drainage systems (SUDS) and to the satisfaction of the Planning Authority. The Developer shall ensure that drainage from the proposed redesigned driveway / parking area will not enter onto Serpentine Avenue.</p> <p>e) The Developer shall prevent any mud, dirt, debris or building material being carried onto or placed on the public road or adjoining property(s) as a result of the site construction works and repair any damage to the public road arising from carrying out the works.</p>

	Reason: In the interest of public safety and the proper planning and sustainable development of the area.
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Mary Crowley

Senior Planning Inspector

15th February 2021