



An
Bord
Pleanála

Inspector's Report

ABP-308842-20

Development	Construction of a vehicular entrance for vehicular access to front garden, landscaping and all ancillary site works.
Location	37, Faussagh Avenue, Cabra West, Dublin 7, D07 N5N2
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	WEB1635/20
Applicant	Sophia Pearson
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party V. Refusal
Appellant	Sophia Pearson
Observer(s)	None
Date of Site Inspection	10 th March 2021
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 132sq.m and is located at No. 37 Faussagh Avenue, Cabra West, Dublin 7. The site is located on the southern side of Faussagh Avenue between Carnlough Road and Dingle Road.
- 1.2. The existing property is a 2-storey, mid terrace dwelling, with the front boundary characterised by a pedestrian entrance, a low block wall and 2 no. entrance pillars. The westbound bus stop (No.63) for route no.122 is located on the public footpath to the immediate front (north) of the property. The footpath at the location of the bus stop is raised and has a Kassel kerb in place to accommodate passenger boarding and landing.
- 1.3. The dwelling house to the immediate west (No. 39 Faussagh Avenue) is characterised by a similar front boundary. The dwelling to the east (No. 35 Faussagh Avenue) has a combined vehicular/pedestrian entrance along the front boundary, with the public footpath to the front having a dished kerb for vehicular access onto the public road. No. 33 and No. 41 Faussagh Venue also have modified front boundaries to incorporate vehicular entrances.
- 1.4. Metered on-street parking is not in operation in the vicinity of the application site, with visitor and overspill parking occurring on the public road/footpath in the immediate area off the nearby streets of Carnlough Road and Dingle Road. A parade of shops is located along the northern side of Faussagh Venue, beginning directly across the road from the subject site, these shops have associated longitudinal parking spaces located to the front, set back off the public road.

2.0 Proposed Development

- 2.1. The proposed development comprises:
 - Demolition of the existing front wall and railings: and
 - The construction of a new vehicular entrance, 3.5m in width, to provide access to a proposed concreted driveway and parking space.

- To provide one car space in the former front garden area and associated works including pillar (0.95m in height), dished kerbing to the public footpath and landscaping/bin storage area.

3.0 Planning Authority Decision

3.1. Decision

Notification of the Decision to Refuse Permission by order dated 11th November 2020 for 1 no. reason as follows:

- 1. The proposed development, consisting of the provision of a vehicular entrance requiring the removal or relocation of an existing bus stop (including Kassel Kerb), does not comply with the Dublin City Development Plan 2016 – 2022 policy MT23 and Appendix 5 including the design standards as per ‘Parking Cars in Front Gardens’ as safe access and egress cannot be achieved due to the conflict with the existing bus stop. The provision of a vehicular entrance at this location would impact on the Kassel kerb which provides improved access to buses for people with mobility impairment and/or disabilities, including the elderly and people with children. The proposed development would therefore, endanger public safety by reason of a traffic hazard and would 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 proposed vehicular entrance would necessitate the removal or relocation of the existing bus stop and its associated infrastructure (Kassel kerb).
- The Kassel kerb located on the public footpath to the front of the site is a significant piece of public infrastructure which provides enhanced accessibility

to buses for people with mobility impairments and/or disabilities, including the elderly and people with children.

- The bus stop not only serves the dwellings in this area but also the strip of nearby shops, including a pharmacy across the road.
- Removal of the bus stop would be contrary to Policy MT23 of the Development Plan.
- Relocation of the bus stop within the general area is not an option due to the presence of existing vehicular entrances at numbers 31, 35, 39 and 43 Faussagh Avenue. This view is supported by the Council's Transportation Advisory Group (TAG).
- The entrance would necessitate the removal of the Kassel kerb to provide safe vehicular access/egress i.e. dished kerbing. Any removal of the Kassel kerb would render the bus stop inoperable from an access point of view which would be contrary to Section 8.5.11 of the Development Plan.
- It would not be possible to ensure safe access/egress to the site with the existing bus stop in place, and therefore any proposed entrance would be contrary to Appendix 5 of the Development Plan.

3.2.2. Other Technical Reports

- Dublin City Council (DCC) Transportation Planning Division: report dated 28th October 2020 recommended refusal and stated the following: *the proposed development would be unacceptable in terms of both non-compliance with the Development Plan standards and the conflict with the existing bus stop and Kassel kerbing, which cannot be relocated to another location.*

The Transportation Advisory Group (TAG) area engineers noted the following:

- *DCC have invested a large amount of money into the infrastructure for this bus stop including the re-alignment of the kerb, and the Kassel kerb.*
- *This Dublin Bus stop has been in place for many years now and is in a position that best serves the shops and local businesses in the area.*

- *The bus stops are strategically positioned at regular intervals and careful consideration would have been given to the location at the time it was put in.*
- *There is no other suitable location nearby to relocate the bus stop.*
- DCC Engineering Department Drainage Division: report dated 07th October 2020 – No objection subject to conditions.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland: Report dated 05th October 2020 - Recommends that a S. 49 Luas Cross City levy be attached, if applicable.
- National Transport Authority (NTA) - no response received.
- Irish Water – no response received.
- Irish Rail – no response received.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

4.1. No planning history on site.

4.2. Planning history on nearby sites:

- ABP Ref. 307986 – 2020 - Permission refused at no.19 Faussagh Avenue for widening of the existing vehicular access to 5m in width, new pillar and associated site works. Reason for refusal related to the excessive width of the proposed entrance.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative Development Plan is the Dublin City Development Plan 2016-2022 (as varied). 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.

5.1.3. Section 8.5.11 Accessibility for all

- **Policy MT23** seeks *'To improve facilities and encourage relevant transport agencies/transport providers to provide for the needs of people with mobility impairment and/or disabilities including the elderly and parents with children'*.

5.1.4. Section 16.38 Car Parking Standards

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 on-street car parking and there is a strong demand for such parking.

5.1.5. Appendix 5 - Road and Footpath Standards for Residential Development

Where driveways are provided, they shall be at least 2.5 m or, at most, 3.6 m in width, and shall not have outward opening gates.

The planning authority's leaflet *'Parking Cars in Front Gardens'* referred to therein also applies. This sets out further guidance on the issue, including requirements for permeability, landscaping, and boundary treatments

5.2. Natural Heritage Designations

5.2.1. None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

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

- The applicant had informed the planning authority that she was having issues with the location of the bus stop, these issues included littering of the front garden of the property and also damage to her vehicle when parked outside of her property and on the adjoining streets as a result of anti-social behaviour.
- The applicant states that she was advised by DCC to apply for planning permission for vehicular access onto her property and has put herself under financial strain as a result of the application costs only to be refused permission.
- The applicant's son is partially blind and therefore the applicant requires her vehicle to be close at hand and ideally parked in the area to the front of the house for ease of access/egress.
- The applicant had to have cameras installed on her property shortly after moving in to ensure the safety of her vehicle.
- The applicant has been in contact with local politicians who have been working to get the bus stop moved.
- The applicant highlights that the bus stop was previously moved from the front of the neighbouring property at no. 33 Faussagh Avenue to the front of her property (its current location) and insists therefore that it is possible to move it again.
- There is a no.122 bus stop on every block of houses on Faussagh Avenue and the applicant is aware that changes are being made currently to reroute

the Dublin buses and therefore to have bus stop no.63 moved a few feet is not unrealistic. The applicant has included a copy of an email sent to the National Transport Authority which includes a request to move the bus stop.

6.2. Planning Authority Response

- 6.2.1. A response from planning authority to the grounds of appeal was received on 6th January 2021 (via email). The planning authority considers that the planner's report deals fully with the relevant issues raised and justifies its decision to refuse permission.

6.3. Further Responses

- 6.3.1. A response to the grounds of appeal was received from Transport Infrastructure Ireland dated 11th January 2021. This stated that TII is not responsible for bus stops but rather this would be a matter for the National Transport Authority (NTA).
- 6.3.2. The Board should note that no response to the appeal was received from the NTA.

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, inspected the site and having regard to the relevant policies and guidance, I consider that the main issues in this appeal are as follows:
- Compliance with Development Plan Policy
 - Appropriate Assessment
- 7.2. Each issue is addressed in turn below.
- ### **7.3. Compliance with Development Plan Policy**
- 7.3.1. In the case of the current appeal the applicant raises two issues, the first, the need for a new vehicular entrance along the front boundary of her property and the second is for the removal of the no.122 bus route stop (bus stop no.63) and associated Kassel kerb from the front of same property to allow the installation of a dished kerb for safe vehicular access and egress from the property. The existing kerb along the public footpath to the front of the property is comprised of a Kassel kerb which has

been specifically installed to allow for passenger access for the mobility impaired and/or those with disabilities, including the elderly and people with children, to and from the buses which use the stop. The Board should note that this bus stop is also located immediately opposite the parade of shops, including a pharmacy which serve this area of Faussagh Avenue. The next nearest western approach bus stop for the no.122 is located approximately 160m to the west and is further removed from the parade of shops.

- 7.3.2. The applicant in her appeal has outlined the rationale behind the current proposal. The applicant submits that prior to the no.122 bus stop being located outside of her property; it was located to the front of the adjacent property at no.33 Faussagh Avenue and was moved on request, she therefore requests the same considerations be taken into account for her appeal. The applicant states she had discussed her proposal with the Planning and Roads departments of DCC prior to lodging her application. I note however from an examination of the internal reports on file received by the area planner, that both the Transportation Planning Division and the Transportation Advisory Group (TAG) area engineers had significant reservations about moving the bus stop and also the loss of the specifically constructed Kassel kerb to the front of the applicant's site.
- 7.3.3. The Council's TAG, who made an internal submission on the application, raise particular concern regarding the requested removal of the existing Kassel kerb, stating that a significant investment went into constructing same. They also state that this bus stop on this western approach for the no.122 bus has been in place for several years now and is currently in a position that best serves the shops and businesses in the area. Both the TAG and the Transportation Planning Division highlight the importance of the bus stop's location, positioned strategically at this regular interval and also the fact that no other suitable location is available nearby to relocate the bus stop.
- 7.3.4. The applicant highlights in her appeal that the same bus stop was previously relocated from the area to the front of the adjoining property at No.33 Faussagh Avenue to its current location outside of her property. Having examined previous Google Street View imagery of the bus stops location, I note that in 2009 the bus stop was in fact located to the front of the shared boundary with no. 35 and no.37 Faussagh Avenue and that the Kassel kerbing appears to have been constructed as

part of the relocation of the bus stop that occurred between the period of 2009 and 2014 (as evidenced by the Street View records). I also note that no response has been received from the NTA in relation to the applicant's request made by email dated 30th September 2018. In addition to this no response was received from the NTA to the planning authority or the Board on appeal. The response from the TII to the appeal, dated 11th January 2021 specifically states that TII is not responsible for bus stops but rather this would be a matter for the National Transport Authority. Therefore, in my opinion the current application is premature pending any agreement from the NTA with regard to the relocation of the existing bus stop.

- 7.3.5. In addition, the relocation of the bus stop is complicated by the presence of specific Kassel kerbing at this location. Appendix 5 of the Development Plan refers to DCC's document 'Parking Cars in Front Gardens' which states the following in relation to proposals for car parking spaces within front garden '*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*', the guidance further goes on to state '*In all cases you should check that the proposed entrance will not interfere with any features on the public footpath such as trees, lamp posts, bus stops, etc.*'. In the case of the current application safe access and egress to the site for the purposes of car parking would necessitate the removal of the existing bus stop and the reconfiguration of the existing Kassel kerb to provide a dished kerb. Policy MT23 of the development plan specifically encourages the relevant transport agencies/transport providers to provide for the needs of people with mobility impairments and/or disabilities. The removal of this bus stop and the specifically configured Kassel kerb would therefore in my opinion be contrary to the Dublin City Development Plan 2016-2022. In addition, I note that no alternative location is proposed, and I also note the TAG's comments which state that no other nearby suitable locations are available. Therefore, in summary I do not consider that the proposed entrance is currently a viable option on this site.

7.4. Appropriate Assessment

- 7.4.1. 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, comprising a new vehicular entrance and proposed dished kerb would require the removal of an existing bus stop serving Faussagh Avenue and would also impact on the Kassel kerb currently in place which provides improved access to buses for people with mobility impairments and/or disabilities. The relocation of same bus stop and Kassel kerbing is not considered feasible. Therefore, safe access and egress cannot be achieved due to the conflict with the existing bus stop. The proposed development would, therefore, conflict with Policy MT23 and Appendix 5 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.

Máire Daly
Planning Inspector

01st April 2021