



An
Bord
Pleanála

Inspector's Report ABP 309417-21.

Development

A dropped kerb for vehicular access and parking and part removal front wall.

Location

158 Walkinstown Road, Walkinstown, Dublin 12.

Planning Authority

Dublin City Council

P. A. Reg. Ref.

WEB 1896/20

Applicant

Fiona Hannigan and Fergus
Marlborough

Type of Application

Permission

Decision

Refuse Permission.

Type of Appeal

First Party X Refusal

Appellant

Fiona Hannigan and Fergus
Marlborough

Date of Site Inspection

6th April, 2021.

Inspector

Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The application site is that of a two-storey, mid terrace house with front and rear gardens located on the west side of Walkinstown Road close to the Walkinstown Cross five arm roundabout to the south. There is a pedestrian entrance with a gate at the front boundary of the application property and a similar intact pedestrian in the front boundary walls of the adjoining property at No 156 to the north side. There is a bus stop, shelter and designated marked bus stopping space. (bus cage) on the carriageway adjoining the footpath on the west side of the road. The southern end of the bus cage extends along the frontage to the application site.
- 1.2. Vehicular entrances and front garden parking have been created at the other properties in the terrace. to each side. Similar development has been implemented at several other residential properties in the area. There is an access route from the public road along the side of No 162, the end of terrace house to the south adjacent to a commercial premises extending along a lane at the rear of Nos 158 to 162 with an up and over garage door at the end at the rear of No165. There is a wall and a shed structure at the rear boundary of the application site property.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for the removal of the front boundary wall and dropping of the kerb at the footpath to provide for a vehicular entrance in the front garden of the application site.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason:

“The proposed development does not comply with the Dublin City Development Plan 2016 – 2022, 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 and ‘Kassel Kerbs’, 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 create a traffic safety hazard for buses and pedestrians using the bus stop. 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. The report of the **Transportation Planning Division** indicates a recommendation for refusal of permission in that:
- Vehicles using the entrance would cross over the bus cage, which is unacceptable to the Traffic Advisory Group and Dublin Bus on vehicular and pedestrian safety grounds,
 - the Walkinstown Road also, for Bus Connects forming part of the Core Bus Network for the Transport strategy for the Greater Dublin Area.
 - It is stated that the bus shelter would obstruct sightlines and a section of existing Kassel Kerbs would be removed.
- 3.2.2. It is also noted in the report that bollards are erected on the footpath to the south of the bus stop and that there is an “historic” entrance at the adjoining property at No154. Reference is also made in the report to the CDP’s Transport Policy MT23 for support and improvement to Transport providers and agencies providing for the needs of people with disabilities and Policy MTO5 which provides for and supports increased capacity and enhancement of public transport services, Appendix 5, and the document: “*Parking Cars in Front Gardens*’ issued by the planning authority.
- 3.2.3. The planning officer, in his report recommended refusal of permission based on the reasoning in the Transportation Planning Division report.

4.0 Planning History

- 4.1.1. **P. A. Reg. Ref. WEB1606/20:** Permission was refused, for a dropped kerb for vehicular access and parking and part removal front wall on the recommendation in the report of the Transportation Division based on the following reason:

“The proposed development does not comply with the Dublin City Development Plan 2016 – 2022, 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 and 'Kassel Kerbs', 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 create a traffic safety hazard for buses and pedestrians using the bus stop. The proposed development would therefore be contrary to the proper planning and sustainable development of the area"

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Dublin City Development Plan 2016-2022 according to which the site is located within an area subject to the zoning objective *Z1: To protect, provide for and improve residential amenities*. According to Appendix 5, Driveways should be 2.5 metres minimum and 3.6 metres maximum in width and shall not have outward opening gates. According to the document *'Parking Cars in Front Gardens'* a vehicular entrance will not be considered acceptable where safe access and egress from the proposed parking space cannot be achieved and / or if there is likely to be interference with bus stops.
- 5.1.2. According to Policy MT23 it is the policy of planning authority '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.'
- 5.1.3. Policy MTO5 provides for facilitation and support for measures by transport agencies and, for increased capacity and enhancement of public transport services on existing services and new infrastructure.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was lodged by the applicants on their own behalf on 11th February 2021 according to which Mr. Marlborough holds a disabled parking permit:

- The proposed development is in accordance with the CDP. There is too much emphasis on Appendix 5 and Policy MT 23 of the CDP in justifying the refusal to grant permission. There are numerous other provisions supporting independent living, at home, for people in the disability community. The applicant qualifies under the exceptions in section 37 (2b) of the Planning and Development Act if the development is in contravention of the CDP because of (b) thereunder, there are conflicting objective in the CDP or the objectives are not clearly stated in so far as the proposal is concerned as the CDP are not intended to be designed to prevent people with disabilities from safe access to their properties.

Permission should also be granted in view of the enhanced provisions and facilities for the disabled community provided for in the National Disability Inclusion Strategy 20172021 following on from The National Disability Strategy in 2004 and the Disability Act 2005 promoting disabled community rights

- The CDP supports applications for people with disabilities. Para 8.5.11 supports agencies addressing transport and access need of persons with mobility impairments.
- Policy SN30 promote sustainable neighbourhoods catering for needs of all persons in all stages of the lifecycle.
- MT048 provides for on and off-street disability driver parking bays in excess of minimum, required where appropriate.
- Section 16.3.1 states that street furniture which according to the appellant includes a bus cage should be integrated in a manner that it does not provide an obstacle for people with disabilities.

- Appendix 2.3.5.6 sets out aims for housing and services for people with disabilities which the refusal of permission would conflict with. It supports addressing the specific housing needs of people with disabilities.
- The parking of cars in front gardens advisory document should be disapplied as it does not address parking people with disabilities and only briefly references non-interference with bus stops.
- The amendments to provide for Kassel Kerbs would be minimal and can be achieved safely. As shown in drawings there need to move the bus cage.
- There is no alternative location for on-site parking such as at the back of the house.
- The proposed development would not create traffic hazard for bus passengers or members of the public.

6.2. Planning Authority Response

6.2.1. There is no submission from the planning authority on file.

7.0 Assessment

7.1. It is noted that the applicant is the holder of a disability parking permit and from visual inspection that there is no scope for possible provision of a designated residents' disability parking space on the road network at the front of the applicant's property.

7.2. A case is made in the appeal support of the proposed development on grounds of disability with reference to national policy and associated policies and objectives within the CDP, (extracts from which are included in the appeal) providing for facilitation of the needs of persons with mobility impairment and disability and the relevant support agencies are fully supported and accepted in principle. It is not accepted that the proposed development is in conflict with these policies or, that there are conflicting policy objectives within the CDP with regard to provisions for persons with disability. The site location, unfortunately for the applicant, precludes possible favourable consideration of provision for a vehicular entrance to provide for parking in the front garden due to the location of the bus stop, shelter, bus cage and

the Kessel Kerbing as has been clearly explained in the report of the Transportation Planning Division. It is established, without doubt that it is not feasible to relocate the bus stop, or to reduce the length of the bus cage which is designed to accommodate concurrent stopping off by two buses, appropriate intervals in service and between stops from the perspective of the design and delivery of an efficient and effective current and future planned bus services and, minimisation of conflicting movements and hazard endangering public safety.

- 7.3. Setting aside the issues relating to the bus cage position and configuration, the sightlines at the site frontage would be obstructed by the bus shelter causing endangerment of public safety by reason of traffic hazard. Further considerations are the proximity to the heavily trafficked Walkinstown Cross the five-armed junction serving important arterial routes and the safe, effective and efficient provision of existing and future planned public transport facilities on Walkinstown Road for the benefit of all public transport use.
- 7.4. Favourable consideration of the proposal is also in direct conflict with effective delivery of the NTA's bus transport policy as provided for in Bus Connects, (Bus Corridor 09 being along the Walkinstown Road) and the CDP policies, particularly Policy Objectives CDP; Policy MT3 in relation to support and facilitation of delivery and enhancement of an integrated public transport facilitation and Policy MTO5 in relation to support and facilitation of delivery and enhancement of public transport benefitting people with the mobility impairment and disabilities. In this regard the specific purpose of the Kassel Kerbs provided for at the bus stop, as pointed out in the Transportation Division's reports is to facilitate use of the bus service by persons with mobility impairment and disability.
- 7.5. These policies would take precedence over and would preclude support for facilitation of private entrances for parking at individual houses, including households occupied by persons with mobility impairment or disability needs, if a conflict would give rise to endangerment of public safety by reason of traffic hazard which cannot be overcome and, if there would be conflict with the national and local policies relating to the provision for current and future efficient and effective integrated network.

7.6. Environmental Impact Assessment Screening.

Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.7. Appropriate Assessment.

Having regard to the planning history for the site, the zoning objective, the location of the site is on serviced land, and, to the nature and scale of the proposed development, no appropriate assessment issues arise, the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld, and that permission be refused based on the following reasons and considerations.

9.0 Reasons and Considerations

The proposed development would endanger public safety by reason of traffic hazard by reason of obstruction of sightlines to the north, and obstruction and conflicting vehicular and pedestrian movements at the bus stop and bus cage on Walkinstown Road and would be contrary to Policy Objective MT23 and MTO5 in the Dublin City Development Plan 2016-2022 which provide for facilitation and support for measures by transport agencies and, for increased capacity and enhancement of public transport services on existing services and new infrastructure and for the transportation needs of people with mobility impairment and/or disabilities.

Jane Dennehy
Senior Planning Inspector
5th May, 2021.