



An
Bord
Pleanála

Inspector's Report ABP-310070-21

Development	Vehicular access to front of house
Location	506 Mourn Road, Dublin 12
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2234/21
Applicant	Malcolm Prince
Type of Application	Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party vs. Refusal
Appellant	Malcolm Prince
Observers	None
Date of Site Inspection	29 th May 2021
Inspector	Stephen J. O'Sullivan

1.0 Site Location and Description

1.1. The site is in a suburban part of Dublin c4km southwest of the city centre. It has a stated area of 115m². It consists of the curtilage of a terraced, two storey house with a stated floor area of 80m². The area is characterised by mid-20th century houses laid out in short terraces. The houses were not originally provided with in-curtilage parking or vehicular accesses. However many of the houses have been subsequently been provided with them, replacing all or most of their front gardens. There is no formal control of parking on the street. However its availability is limited by the proliferation of accesses across the entire front boundaries of residential properties. The house on site is the second of a terrace of six. It retains its front garden and boundary wall, but four of the other houses in the terrace have replaced theirs with car parking. There is a tree in the footpath in front of the house on the site. Its trunk is large relative to its branches, only some of which had foliage at the time of inspection, indicating that the tree was heavily lopped at some stage.

2.0 Proposed Development

2.1. It is proposed to widen the existing pedestrian gate to 3.6m to allow vehicular access, and to provide a car parking space in the front garden. A wall with a new pillar would remain across 1.43m of the front boundary. The existing tree in front of the site would be removed. The submitted site plan states that a new tree could be planted in the footpath in front the remaining front boundary wall if required.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission for one reason which stated that the loss of the tree would seriously injure the residential amenity of property in the vicinity and is not justified because parking on the street is not restricted. The proposed development would therefore be contrary to section 16.3.3 of the development plan and the Dublin Tree Strategy 2016-2020.

3.2. Planning Report

- 3.2.1. The Planner's report stated that the proposed entrance would be the maximum width of 3.6m allowed under the development plan and would result in the loss of a tree. The tree could not be saved by a narrower entrance. It was recommended that permission be refused.
- 3.2.2. The Transportation Planning Division reported that the Parks Division had stated that a new tree could not be provided due to the proximity of services and the dishing of the access to the neighbouring property and that the proposed development would be contrary to the Dublin Tree Strategy, and so recommended refusal.

4.0 Planning History

No previous planning applications on the site were cited by the parties.

5.0 Policy Context

5.1. Development Plan

The Dublin City Development Plan 2016-2022 applies. The site is zoned under objective Z1 to protect, provide and improve residential amenities.

Both section 16.3.3 of the development plan and section 3.3 of the Dublin City Tree Strategy 2016-2020 set out the following policy -

In the design of vehicular entrances, the impact on adjacent trees will need to be considered. Entrances should be located to avoid conflicts with street trees.

Where a 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

6.0 The Appeal

6.1. Grounds of Appeal

The ground of appeal can be summarised as follow

- The applicant is prepared to plant a new mature tree to replace the existing one. This proposal does not appear to have been considered by the council.
- Alternatively, the width of the proposed drive can be reduced to 3.2m to allow the existing tree to be retained.
- The council has not considered the current condition of street parking in the area, with many houses having more than one car.
- The council have granted permission for other similar developments along Mourne Road.

6.2. Planning Authority Response

None received

6.3. Observations

None.

7.0 Assessment

7.1. On-street parking is not restricted along this street. However its availability has been restricted by the proliferation of driveways. Preventing the applicant from providing a driveway in front of his house would be likely to cause some inconvenience, as cars are more likely to park on the road in front of this house as other on-street spaces are lost. A reasonably strong justification would therefore be required for a different approach to the laying out a driveway in front of this house compared to the others along the street.

7.2. The tree in front of the house on the site does not make a significant contribution to the visual amenity of the area or the residential amenities of property in the vicinity of the site. Section 16.3.3 of the development plan and section 3.3.3 of the Dublin Tree

Strategy 2016-2020 do not prohibit the removal of street trees to provide access to private properties if that removal cannot be avoided. Rather, those provisions allow for compensatory measures by providing new trees in different places than the ones removed. The planning authority's reason for refusal is not justified, therefore.

- 7.3. It is not clear why a replacement tree could not be provided in the position proposed by the applicant in this case. The reference in the council's reports to dishing or the location of services are not substantiated. However if a new tree could not be planted there, then section 16.3.3 of the development plan and section 3.3.3 of the Dublin Tree Strategy 2016-2020 allow for the payment of a financial contribution to provide a tree somewhere else in these circumstances. The proposed access of 3.6m width would not pose a threat to the safety of pedestrians or other road users and would maintain the character of the streetscape to reasonable degree. It would also comply with the maximum width set out in the council's information leaflet on parking in front gardens. It is therefore recommended below. However the width of 3.2m proposed as an alternative in the appeal would also be acceptable. However the alternative proposal did not set out in plan how this would preserve the existing tree in front of the house.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the conditions set below.

9.0 Reasons and Considerations

Having regard to section 16.3.3 of the Dublin City Development Plan 2016-2022 and section 3.3.3 of the Dublin Tree Strategy 2016-2020, which allow for the relocation or replacement of street trees to facilities vehicular entrances if their removal cannot be avoided, to the existing proliferation of on-curtilage parking in front of houses in the area, and to the limited contribution that the tree that would be removed in this case makes to the appearance of the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of the safety and convenience of road users, and would be in keeping with the

provisions of the development plan. The proposed development would therefore be in keeping with the proper planning and sustainable development of the area.

10.0 Conditions

1. 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.

Reason: In the interest of clarity

2. Prior to the commencement of development, the developer shall submit for the agreement of the planning authority full details of the planting of a tree in the street to replace that which would be removed as part of the permitted development. If agreement on these details cannot be concluded or if the planting of a replacement tree cannot be carried out in the agreed manner, the developer shall pay to the planning authority a financial contribution towards the planting of a replacement street tree elsewhere in the area, the amount of which shall be agreed between the planning authority and the developer or, in default of agreement, by An Bord Pleanala.

Reason: In the interests of visual amenity

3. The footpath shall be ditched and reinstated in accordance with the detailed requirements of the planning authority. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services

Reason: In the interests of public safety and orderly development

Stephen J. O'Sullivan,
Planning Inspector

30th May 2021