



An
Bord
Pleanála

Inspector's Report

ABP-311272-21

Development	Construction of a vehicular entrance to the front of the property and the construction of a sky-light in the main roof to the front of the property.
Location	15, Fairfield Road, Glasnevin, Dublin 9
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	WEB1646/21
Applicant(s)	Shelia Hynes
Type of Application	Permission
Planning Authority Decision	Split Decision
Type of Appeal	First Party v Condition
Appellant(s)	Shelia Hynes
Observer(s)	Sandra O' Connell
Date of Site Inspection	30 th November 2021
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located at 15 Fairfield Road, Glasnevin, Dublin 9, in an established residential area. The site is occupied by a two storey, semi-detached red brick period dwelling. There is a small garden to the front of the house which is bounded by a low-rise concrete plinth wall with iron railing mounted atop. A pedestrian gate is set within the front boundary. A bay window projects into the front garden of the property. There is a shared side passage between the appeal site and the property to the east (i.e. No. 17 Fairfield Road). On my site inspection I observed that this area was used for the storage of bins and serves as an access to the rear of the respective properties.
- 1.2. A street tree is positioned within the footpath to the front of the site. Pay and display parking is in operation along Fairfield Road, and there is a parking bay located to the front of the site.
- 1.3. Several neighbouring properties along Fairfield Road, including that to the east at No. 17 have vehicular entrances/in-curtilage car parking, typically accommodating 1 no. space. In the majority of instances, these properties have retained a section of the front boundary wall/railing.
- 1.4. There is a bank (which is on the National Inventory of Architectural Heritage, Ref 50130161) located at the junction between Fairfield Road and St. Mobhi Road, c. 90 metres west of the subject property. On the opposite side of St. Mobhi Road there is a parade of shops, including a launderette, estate agents, grocery store, pharmacy, and a hairdresser.

2.0 Proposed Development

- 2.1. The proposed development comprises the creation of a vehicular entrance (2.8 metre in width) and associated area for the parking of one car to the front of the property. The proposal retains the majority of the existing front boundary. The proposed layout indicates the front garden being extended eastwards into a shared area between No. 15 and No. 17.
- 2.2. A roof-light (with dimensions of c. 1 metre x 1 metre) in the main roof to the front of the property is also proposed.

3.0 Planning Authority Decision

3.1. Decision

On the 6th August 2021 Dublin City Council issued a split decision in respect of the proposed development, specifically a Notification of Decision to Grant Permission for the roof-light (subject to 7 no. conditions) and a Notification of Decision to Refuse permission for the vehicular entrance (for 1 no. reason).

Regarding permission for the roof-light, the following conditions included in **Schedule 1** are noted;

- Condition 2 – requires that the proposed vehicular entrance and off-street car parking space shall be omitted from the permission.
- Condition 3 - requires that the roof-light shall be placed as flush as possible with the roof plane.

Schedule 2 sets out the reason for refusal for the vehicular entrance and can be summarised as follows;

The proposed development would contravene Policy MT14 and Section 16.38.9 of the Dublin City Development Plan 2016-2022 which seek to retain on-street parking and, that given the inadequacy of the depth of the proposed parking space, the proposal would not comply with the standards for parking cars in front gardens.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer includes the following comments regarding the proposed roof-light;

- Noted that the proposal accords with the 'Z1' zoning objective;
- Noted that a similar roof light was permitted at No. 12 Fairfield Road (see PA Ref. 2536/00);
- Noted that the proposed roof-light would not result in overlooking or detract from the visual amenity of the area.

The report of the Planning Officer includes the following comments regarding the proposed vehicular entrance;

- Noted that the proposal would contravene Policy MT14 and Section 16.38.9 of the Dublin City Development Plan 2016 - 2022 (concerning the loss of on-street car parking);
- Noted that the proposed in-curtilage car parking space is not of a sufficient area/dimension to cater for a car parking space and would not comply with Appendix 5 of the Dublin City Development Plan 2016 - 2022;
- Noted that it has not been demonstrated that the proposed vehicular entrance could be constructed without damaging the street tree to the front of the site;

The report of the Planning Officer (dated 6th August 2021) reflects the Notification of Decision to Grant Permission for the roof-light and Refuse Permission for the vehicular entrance.

3.2.2. Other Technical Reports

- ***Drainage Division*** report (dated 20th July 2021) - no objection subject to standard conditions (re. surface water).
- ***Transportation Planning Division*** report (dated 23rd July 2021) – object to the proposed vehicular entrance on the basis that the proposal will result in the loss of an on-street parking space in an area where residents rely on such spaces (contrary to Policy MT14 and Section 16.38.9 of the Dublin City Development Plan 2016 – 2022), concerns in relation to the excessive width of proposed vehicular entrance at 3.5 metres and the inadequacy of the depth of the space at 4.5 metres. Report also notes that the car would have to park at an angle.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

The following is a summary of the main issues raised in the third-party observations received by the Planning Authority;

- Concerns in relation to the proposed roof-light on the front roof plane of the dwelling. Roof-light should be omitted or relocated to the rear roof plane;
- Opposition to the extension of the walls and railing of No. 15 Fairfield Road across the shared driveway/side entrance, which would obstruct a right-of-way;
- That the site plan submitted does not depict an extension to the rear of No. 15;
- That the side passage between No. 15 and No. 17 should remain unobstructed.

4.0 Planning History

4.1 Subject Site

None.

4.2 Vicinity of Subject site

PA Ref. 2141/07 – Permission granted for vehicular access and driveway to front at 8 Fairfield Road, Glasnevin, Dublin 9. (The vehicular entrance was 5 metres in depth x 3.6 metres in width).

PA Ref. 2536/00 - Permission granted for two storey rear extension, roof light to front and new vehicular entrance to provide off street parking at 12 Fairfield Road, Glasnevin, Dublin 9.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the Dublin City Development Plan 2016-2022, under which the appeal site/property is zoned 'Z1'- 'Sustainable Residential

Neighbourhoods' with a stated objective 'to protect and/or improve residential amenities'.

The house on the appeal site is not included on the Record of Protected Structures and the site is not included within any conservation area zoning or designation. There is a Recorded Monument (Ref. DU018-010 'Holy Well') to the south of the appeal site at Cliftonville Road and, reflecting this, the appeal site is identified as being within a Site of Archaeological Interest in the Dublin City Development Plan 2016-2022.

The following policy is relevant to the proposal for a vehicular entrance;

Policy MT14: Seeks to minimise loss of on-street car parking, whilst recognising 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: States that 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.

Section 16.38.9: States that public on-street parking is a necessary facility for shoppers and business premises and is necessary for the day-to-day functioning of the city. Dublin City Council will preserve available on-street parking, where appropriate.

Appendix 5 'Road Standards for Various Classes of Development' - Section 5.1: *'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 design standards set out in the planning authority's leaflet 'Parking Cars in Front Gardens' shall also apply'.*

The planning authority's leaflet **'Parking Cars in Front Gardens'** provides the following – *'the basic dimensions to accommodate the footprint of a car within a front garden are 3 metres by 5 metres. It is essential that there is also adequate space to allow for manoeuvring and circulation between the front boundary (be it a wall, railing or otherwise) and the front of the building. A proposal will not be considered acceptable where there is insufficient area to accommodate the car safely within the garden'.*

5.2. Natural Heritage Designations

The appeal site is not located within or close to any European Site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity of the site, and connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental 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

The grounds of appeal, as raised in the submission from the first-party appellant can be summarised as follows.

- That the on-street car parking space which will be lost is primarily used by the appellant/resident of No. 15 Fairfield Road and that, through the creation of an in-curtilage parking space, there will be no net loss of car parking. Furthermore, the proposal could result in a net increase of 1 no. car parking space given that the appellant/resident of No. 15 Fairfield Road owns 2 no. cars, one of which will be accommodated within the front curtilage of the property with the second car parked across the proposed entrance;
- That the vehicular entrance/in-curtilage parking space is required to serve an electric car and it is contended that this is in line with local and national policy on sustainable transport provision;
- That the front garden is compliant with the guidance document 'Parking Cars in Front Gardens', being 7.3 metres in width and 5.2 metres in depth. Several houses on the street have successfully parked their cars in similarly sized front gardens;

- That there is precedent along Fairfield Road for off-street car parking. To deny the appellant the same would be unfair and discriminatory;
- That the proposed vehicular entrance has been altered compared to that as initially proposed. Specifically, the width of the entrance has been reduced from 3.5 metres to 2.8 metres;
- That the street tree to the front of the site will be retained;
- Having regard to the forgoing points, the appellant requests that Condition no. 2 be overturned.

It is noted that the first party appeal notes reference to Condition No. 2 which requires the omission of the vehicular entrance. The Notification of Decision issued by the Planning Authority was a split decision with the vehicular entrance specifically refused permission under Schedule 2. The grounds of appeal are therefore taken as an appeal against this refusal of permission as well as Condition No. 2.

6.2. Planning Authority Response

None received.

6.3. Observations

An observation has been received from Sandra O' Connell (No. 17 Fairfield Road, Glasnevin, Dublin 9 which adjoins the appeal site to the east). The observation states that the appeal does not resolve the issue noted in the third-party observation, specifically;

- That the proposed development, due to the extension of the garden of No. 15 Fairfield Road across the driveway/side entrance shared with No. 17 Fairfield Road, would encroach on her property;
- That Nos. 15 and 17 Fairfield Road already have a shared driveway/entrance with a dropped kerb and this should continue. The proposal entails taking half of this shared driveway to construct a private one for No. 15 which would obstruct the observer's legal right-of-way;

- That the site plan submitted with the appeal documentation depicts a boundary/structure extending from the front wall of No. 15 across the shared side entrance with No. 17 which would block access to the rear of No. 17 and could obstruct access to the rear of No. 17 in an emergency;
- That the site plan submitted with the appeal documentation does not depict an extension to the rear of No. 15;
- That the red line boundary is misleading;
- That the list of precedents referred to by the appellant in the appeal response are incorrect. No. 11 and No. 13 Fairfield Road share an entrance and some other properties have garages;
- That the ability to carry out the proposal as it relates to the vehicular entrance is queried and the observer states that no approach has been made to them in relation to this;
- That the appellant has not resolved the issue concerning the depth of the proposed driveway.

7.0 Assessment

7.1. I consider the main issues in determining this appeal are as follows:

- Scope of Appeal.
- Parking and Traffic Safety.
- Impact on Amenity.
- Encroachment/Legal Issues.
- Appropriate Assessment.

7.2 Scope of Appeal

7.2.1 This is a first-party appeal against Condition No. 2 contained in Schedule 1 of the Notification of Decision to Grant Permission for the roof-light. Condition No. 2 provides that the proposed vehicular entrance and off-street car parking space shall be omitted from the permission. I also note that the proposed vehicular entrance was refused

permission for 1 no. reason contained in Schedule 2 of the Notification of Decision to Refuse Permission for the vehicular entrance, however the first-party does not explicitly appeal this point of the decision. Notwithstanding the fact that the first-party relates only to Condition no. 2 contained in Schedule 1, given the refusal set out in Schedule 2 it is considered that in this case the application must be considered *de novo* and the appeal cannot be considered to relate solely to a condition given the parallel effect of the separate refusal.

7.3 Parking and Traffic Safety

7.3.1 Under Policy MT14 and Section 16.38.9 of the Dublin City Development Plan 2016 - 2022 there is a presumption against the removal of on-street car parking to facilitate the provision of vehicular entrances, in particular where residents in the area are reliant on on-street car parking and where there is a strong demand for such parking. Based on my site visit, which was carried out on a weekday afternoon, I note that there is a high demand for on-street car parking along Fairfield Road with the majority of spaces occupied at the time of my site inspection.

7.3.2 I note that a number of the properties along Fairfield Road have in-curtilage parking and as such the main localised demand for on-street parking is likely to come from the residents in the area with second cars and visitors. I also note that some demand is likely to arise from the bank at the junction with St. Mobhi Road and the nearby parade of shops. I am not satisfied therefore that the proposal for a vehicular entrance at this location would accord Policy MT14 and Section 16.38.9. Whilst I note that Policy MT14 envisages instances where the loss of a space may be required for reasons which include sustainable transport provision, I do not consider that this would extend to the facilitation of a charging point to serve a private electric car within the curtilage of a private residence where the provisions of Policy MT14 and Section 16.38.8 of the plan are not otherwise met.

7.3.3 The appellant further contends that the proposal could result in a net increase in the availability of on-street parking, given that the appellant has two cars, both of which are currently parked on the street. Post development, it is contended that one car would be parked within the site and the second on the street across the new entrance

and, as such, that there would be increased on-street parking available. I do not accept this point as being a practical solution or one that it is sustainable as the provision of on-street car parking is to serve the wider area and is a finite resource.

7.3.4 Regarding layout, I do not consider that the depth of the front garden (which is c. 4.5 metres when the area compromised by the bay window is taken account of) is sufficient to accommodate a standard sized vehicle, as evidenced by the depiction of the car parked obliquely on the site plan (Drawing No. 21028-ABP-2.01). This arrangement, whereby the car would have to drive in/out of the site at an angle, together with the restricted width of the entrance, would impede the driver's visibility of pedestrians using the footpath, resulting in the potential for pedestrian/vehicular conflict.

7.3.5 Given the distance between the street tree to the front of the appeal property/site and the proposed vehicular entrance, I consider that access and egress from the site could be achieved without any impacts on the tree.

7.3.6 Regarding the issue of precedent raised by the first party, I note that permission was granted under PA Ref. 2141/07 for a vehicular access and driveway to the front at No. 8 Fairfield Road. This permission was, however assessed and permitted under the provisions of a different development plan. I also note that in this case the vehicular entrance had more generous dimensions and that the depth of the front garden was longer than that of the current appeal site.

7.4 Impact on Amenity

7.4.1 Having regard to the scale of the proposed roof-light and the precedent in the area for roof-lights on the front slope, I do not consider that the proposed roof-light would be harmful to the visual amenities or to the character of the area. The proposed roof-

light would therefore be consistent with the 'Z1' zoning objective, the stated objective of which is 'to protect and/or improve residential amenities'.

7.5 Encroachment/Legal Issues:

7.5.1 The observer to the appeal, who resides at No. 17 Fairfield Road raises the issue a right-of-way and specifically that the proposed vehicular entrance would obstruct a right-of-way that runs between their property and the appeal site, impede access to the rear of their property, and to their driveway. From reviewing the particulars submitted with the appeal I note that the proposed works within this area are contained within the red-line boundary of the appeal site. Given the shared nature of this side passage, the proposal may have the potential to impact on the access arrangement currently in place between both properties, affecting access to the rear of the observer's property. I note however that neither party has submitted clear information in relation to how the use of this shared side passage is governed, in terms of a legal right of way etc. and in this regard I note the provisions of Section 34 (13) of the *Planning and Development Act 2000*, as amended, i.e. a person shall not be entitled solely by reason of a permission under this section to carry out any development. The issue raised is therefore considered to a civil issue between the parties to the appeal.

7.6 Appropriate Assessment:

7.6.1 Having regard to the nature and limited scale of the proposed development, to the serviced nature of the site, the developed nature of the landscape between the site and European sites and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

8.0 Recommendation

8.1 I recommend that a split decision should be made, as follows:

- (1) Grant permission for the roof-light based on the reasons and considerations marked (1) under and subject to the conditions set out below (section 10.0), and,
- (2) Refuse permission for the construction of a vehicular entrance to the front of the property based on the reasons and considerations marked (2) under (section 11.0).

9.0 Reasons and Considerations (1)

Having regard to the residential land use zoning of the site, to prevailing pattern and character of existing development in the vicinity and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development 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 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 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 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400</p>

	<p>hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional 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>
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11.0 Reasons and Considerations (2)

1. The proposed vehicular entrance, by reason of the loss of one on-street car parking space in a location where there is high demand for on-street car parking, would be contrary to Policy MT14 of the Dublin City Development Plan 2016-2022, which seeks to minimise the loss of on-street parking as a resource for the city. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The layout and restricted dimensions of the proposed off street parking area and the width of the entrance would result in a car having to access and egress the site at an angle thereby impeding the driver's visibility of pedestrians using the footpath and resulting in pedestrian/vehicular conflicts. The proposed development would therefore endanger public safety by reason of traffic hazard and be contrary to proper planning and sustainable development.

Ian Campbell
Planning Inspector
22nd December 2021