



An
Bord
Pleanála

Inspector's Report

ABP-311491-21

Development	Widening of the openings in the front stone boundary wall to provide vehicular access with inward opening double gates
Location	10 & 12, Winton Avenue, Rathgar, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3095/21
Applicant(s)	Alexander Gibbs, Conall Quinn & Carol Anne Leyden
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Alexander Gibbs, Conall Quinn & Carol Anne Leyden
Observer(s)	Philip O'Reilly
Date of Site Inspection	3 rd December 2021
Inspector	Mary Crowley

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1.0 Site Location and Description

1.1. The appeal site with a stated area of 671 sqm comprises a two adjoining mid-terrace dwellings located on the southern side of Winton Avenue. The properties each have front and rear gardens. Both are served by separate pedestrian entrances from the street. The area is residential in character. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail

2.0 Proposed Development

2.1. The development will consist of the following:

- widening of the existing openings in the front stone boundary wall of both No 10 and No 12 Winton Avenue to provide new vehicular access with inward opening double gates,
- 2.6 meters wide to each garden the subject of this application.

2.2. The gates shall match in design and height the existing gates on site. One paved parking space, 2.6 meters wide shall be provided in each garden to facilitate electric vehicle charging points. The dividing railings between the gardens shall be retained and conserved.

2.3. The application was accompanied by a cover letter setting out the following as summarised:

- Permission was granted in May 2006 (Reg Ref 1723/06) for a slight widening of existing opes to form one continuous sliding gate between each pair of houses to provide off street car parking for all four houses at Nos. 6,8,10 and 12 Winton Avenue.
- The permission was enacted by the owners of No 6 and 8 Winton Avenue only.
- The owners of No 10 and 12 Winton Avenue now wish to reapply for permission for the same development which has been amended to include modification required by condition No 2 of Reg Ref 1723/06 (See Section 4.0 below).
- The applicants have recently purchased electric vehicles and require an area within their property where they can charge the vehicles.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dublin City Council issued notification of decision to refuse permission for a single reason as follows:

- 1) *The proposed development would result in the 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 proposed development would also set an undesirable precedent for other similar developments, which would in themselves and cumulatively, 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** recommended that permission be refused for a single reason relating to the loss of on street car parking and that the development would be contrary to Policy MT14 of the Dublin City Development Plan 2016 – 2022. This recommendation is in line with the recommendation of the DCC Transportation Planning Division (see below). The notification of decision to refuse permission issued by Dublin City Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Drainage Division** - No objection subject to conditions.
- **Transport Planning** – Noted that Winton Avenue is a high demand car parking area, and the allocated resident permits for this road is at full capacity. Both No. 10 and No. 12 are noted to have on street parking two live permits each. The proposed vehicular entrances and associated dishing will result in the loss of a minimum 2 on street car parking bays and potentially 3 spaces depending on how the proposed impacts on the continuous parking bay. There are also concerns on

the impact on the existing street tree adjacent to no. 12 Winton Avenue. Recommended that permission be refused for the following reason:

The proposed development would result in the 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 proposed development would also set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be contrary to the proper planning and sustainable development of the area

3.3. Prescribed Bodies

3.3.1. None

3.4. Third Party Observations

3.4.1. None

4.0 Planning History

4.1. There was a previous planning application at No 6,8,10 and 12 Winton Avenue that may be summarised as follows:

Reg Ref 1723/06 - Permission granted for a slight widening of existing opes in stone walls and modification of existing cast iron centre panels between existing gates and joining gates to form one continuous sliding gate between each pair of houses to provide off street car parking for all four houses at nos. 6,8,10 and 12 Winton Avenue. Condition 2 of the permission required that:

Prior to commencement of development drawings providing for the following shall be submitted to the planning authority for its written agreement;

- (i) An individual inward opening double gate shall be provided in openings 2.6 meters wide to each garden the subject of this application. These gates shall match in design and height the existing gates on site and retain the existing metal piers.*

- (ii) *One paved car parking space, 2.6 meters wide, shall be provided in each garden. A similar paving shall be provided for each of these spaces. The remaining garden space shall be kept free of development and shall be soft landscaped.*
- (iii) *The dividing railings between the gardens shall be retained and conserved. Reason: In the interests of the amenity of a residential conservation area.*

4.2. From observations on day of site inspection it is noted that this permission was implemented for Nos. 6&8 only.

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 zoned Z2 where the objective is “*to protect and/or improve the amenities of residential conservation areas*”. Relevant sections of the Development Plan are as follows:

- **Appendix 5** sets out standards for various classes of development including vehicular entrances.
- **Section 5.1** 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*”.
- **Policy MT14** seeks to minimise loss of on-street parking as follows:

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** 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*”.
- **Section 16.2.2 Existing Trees and their Protection** states *that the successful retention of suitable trees is a benchmark of sustainable development and that the*

design of vehicular entrances that impact on adjacent trees will need to be considered 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.

- **Section 16.10.18 Parking in the Curtilage of Protected Structures and in Conservation Areas** states that *where site conditions exist which facilitate parking provision without significant loss of visual amenity and historic fabric, proposals for limited off-street parking will be considered where the following criteria as set out in the Development Plan.*

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, 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 appeal has been prepared and submitted by Frank Ennis & Associates on behalf of the applicant and may be summarised as follows:
- Permission was granted in May 2006 (Reg Ref 1723/06) for a slight widening of existing opes to form one continuous sliding gate between each pair of houses to provide off street car parking for all four houses at Nos. 6,8,10 and 12 Winton Avenue. The permission was enacted by the owners of No 6 and 8 Winton Avenue only. The owners of No 10 and 12 Winton Avenue did not enact the permission due to financial constraints.

- Chapter 8 and Policy MT14 Movement and Transport are noted. The scheme is not contrary to Policy MT14. It is submitted that the proposal is required to facilitate electric vehicle charging points. Due consideration has not been given to the lack of on street charge points, the lack of guidelines for on street charging from DCC and the lack of a roll out plan for charging infrastructure to facilitate the provision of sustainable transport in the city. As it stands EVs are only a realistic option for individuals with private driveways and it is therefore essential that access to these is facilitated.
- There are approximately 65 resident permits issued by DCC for Winton Avenue and that there are approximately 50 car spaces available in the form of continuous parking bays. This imbalance between the number of permits issued and the number of car parking spaces available on Winton Avenue has created a demand for off street parking.
- Of the 17 properties on this road only 6 properties (including those which are subject of the appeal) do not have in-curtilage car parking. Of the 11 properties within in-curtilage parking, a significant number of these have space for 2+ vehicles e.g Nos 1, 2, 5, 7, 8, 9 and 11.
- It is suggested that the proposal would result in the loss of 2 on street parking bays, however, no due regard has been given to the fact that the proposal would also result in a reduction of 2 on street car parking spaces being required by the appeal properties. Submitted that the decision by DCC is a commercial one rather than a planning one particularly where the proposal would have a neutral impact on the availability of on-street parking.
- The applicant carried out a survey of the car parking on Winton Avenue on Tuesday 14th September as follows:

Time	Resident Permit	Pay & Display	Used Off Street Parking	Vacant Off Street Parking	Free Parking Spaces (10)	Total On Street Spaces Used	Total On Street Spaces Vacant
09.00	19	13	10	11		32	28
12.00	24	2	10	11	8	34	26
15.00	26	2	14	7	7	35	25
18.00	27	2	13	8	10	39	21
21.00	32	2	7	14	1	35	25

- The position of the tree has been surveyed in the context of the widened entrance to No 12 and it is confirmed that the street tree is located 4 metres from the proposed vehicular entrance to No 12 and therefore the proposal would have no impact on this tree.

6.2. **Planning Authority Response**

6.2.1. None

6.3. **Observations**

6.3.1. There is one observation recorded on the appeal file from Philip O'Reilly. The issues raised relate to upholding the decision to refuse permission as it is not in keeping with the objectives of the current development plan, loss of on street carparking, impact on historic setting and character and traffic safety.

6.4. **Further Responses**

6.4.1. None

7.0 **Assessment**

7.1. The development provides 1 no. vehicular entrance into each No. 10 and 12 Winton Avenue. Both vehicular entrances will measure 2.6 m in width. This will facilitate off street parking space for each dwelling in order to facilitate access to an electric vehicle charging points for each. There is also a mature street tree on the footpath between to No. 12 and No. 14 Winton Avenue.

7.2. Dublin City Council issued a notification of decision to refuse permission in line with the recommendation of DCC Transportation Planning, for a single reason relating to the loss of on street car parking and that the development would be contrary to Policy MT14 of the Dublin City Development Plan 2016 – 2022.

7.3. The applicants have appealed the refusal stating that this is a repeat application where permission was granted in 2006 for a similar development but not carried out, that the current scheme complies with Condition No 2 of the previous permitted development, that off street car parking is required to facilitate electric charging points for the

applicants electric cars and that the loss of on street permit parking is essentially commensurate with the proposed off street car parking. I refer to Section 6.1 above.

7.4. As documented the appeal site is wholly contained within an area Zoned Z2 Residential Conservation Area. Having regard to the detailed nature of the proposed scheme and width of opening I am satisfied that the works proposed will maintain the design continuity of the existing boundaries and this approach is to be complemented. I consider that in terms of design detail the scheme demonstrates a clear understanding of its context and that the works will not detract from the original integrity and character of either the parent buildings or the wider streetscape. With regards to the mature tree located between No 12 and 14 I am satisfied that by means of suitably worded condition the tree and associated roots can be protected without detriment to the tree. Overall, I am satisfied that the scheme in terms of design and layout complies with the requirements of Section 16.10.18 *Parking in the Curtilage of Protected Structures and in Conservation Areas* and Section 16.2.2 Existing Trees and their Protection of the Development Plan.

7.5. However, notwithstanding the acceptance of the works in principle I refer Policy MT14 that seeks to minimise loss of on-street parking as follows:

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.

7.6. In addition Section 16.38.0 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*”.

7.7. As documented above, DCC Transport Planning Division, in consultation with Parking Enforcement, stated that Winton Avenue is a high demand car parking area, and the allocated resident permits for this road are at full capacity. It is further stated that both No. 10 and No. 12 are noted to have on street parking, with two live permits each. The proposed vehicular entrances and associated dishing will result in the loss of a minimum 2 on streetcar parking bays and potentially 3 spaces depending on how the proposal impacts on the continuous parking bay. It is noted that properties with in-curtilage parking can still apply for permits for on street parking.

7.8. While I note the applicants necessity to provide an off street electric vehicle charging point, it remains that there are no obvious provisions in the current County Development Plan to facilitate such works without compromising the objective to minimise the loss of existing public on-street car parking.

7.9. While there are numerous examples of vehicular entrances in the area and notwithstanding the applicants specific requirements to facilitate the use of a more sustainable form of private transport it is considered given the sensitive location of the appeal site together with the requirements of Policy MT14 and Section 16.38.0 as documented above I cannot support the loss of on street car parking at this location. Refusal is recommended.

7.10. **Development Contributions**

7.10.1. I refer to the Dublin City Council Development Contribution Scheme 2020-2023. Section 11 outlines circumstances where no contribution or a reduced contribution apply. It is stated that residential ancillary car parking will not be required to pay development contributions under the Scheme.

7.11. **Appropriate Assessment**

7.11.1. Having regard to the nature and scale of the development 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.

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 **REFUSED** for the following reasons and considerations.

9.0 Reasons and Considerations

- 1) The proposed development would result in a loss of on-street car parking which would reduce the supply available to residents on Winton Avenue and that to permit same would be contrary to Policy MT14 of the Dublin City Development Plan 2016 – 2022 which seeks to *minimise loss of on-street car parking* as far as practicable, and contrary to Section 16.38 where it 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*”. The proposal would set an undesirable precedent for other similar developments which would in themselves and cumulatively, be contrary to the proper planning and sustainable development of the area.

Mary Crowley

Senior Planning Inspector

3rd December 2021