



An  
Bord  
Pleanála

## Inspector's Report 311880-21

---

|                                     |  |
|-------------------------------------|--|
| <b>Development</b>                  | Alterations and removal of existing front boundary railings & creation of vehicular access for off-street car parking. |
| <b>Location</b>                     | 5 The Crescent, Donnybrook, Dublin 4   |
| <b>Planning Authority</b>           | Dublin City Council  |
| <b>Planning Authority Reg. Ref.</b> | 3335/21  |
| <b>Applicant(s)</b>                 | Paula Murphy   |
| <b>Type of Application</b>          | Permission   |
| <b>Planning Authority Decision</b>  | Refuse permission  |
| <b>Type of Appeal</b>               | First Party v. Decision  |
| <b>Appellant(s)</b>                 | Paula Murphy   |
| <b>Observer(s)</b>                  | Philip O'Reilly  |
| <b>Date of Site Inspection</b>      | 6 <sup>th</sup> March 2022   |
| <b>Inspector</b>                    | Louise Treacy  |

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 140 m<sup>2</sup> and is located at No. 5 The Crescent, Donnybrook, Dublin 4. The Crescent extends in a south-easterly direction from Donnybrook Road and is located between Donnybrook Garda Station to the east and Donnybrook Fire Station to the west.
- 1.2. The existing property is a 2-storey, end-of-terrace dwelling with a bay window at ground floor level to the front, facing onto a small, landscaped garden space. The site boundary adjacent to the public footpath is characterised by a granite plinth with cast iron railings and a mature hedge. Double yellow lines extend along both sides of the public road to the front of the site. On-street public car parking is in operation along the southern end of the street. A further off-street pay and display public car park is located at the northern end of the street, proximate to the junction with Donnybrook Road. The car park serving Donnybrook Garda Station is generally located opposite the subject site.

## 2.0 Proposed Development

- 2.1. The proposed development will consist of alterations and removal of the existing front boundary railings, replacement of the garden with permeable paving, the creation of a vehicular access to the front garden and provision for 1 no. off-street car parking space, with all associated landscaping, boundary treatment and ancillary works necessary to facilitate the development.
- 2.2. It is proposed to remove the entirety of the front boundary railings, granite plinth and planting to facilitate the off-street car parking space which is arranged parallel to the dwelling façade and the public street. The demarcated area of the proposed car parking space measures 2.5 m x 5.0 m and occupies most of the existing front garden space.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Dublin City Council issued Notification of the Decision to Refuse Permission on 11<sup>th</sup> October 2021 for 2 no. reasons as follows:

(1) The proposed vehicular entrance width impacts the public footpath and would constitute a safety hazard for pedestrians. The parking area which is to facilitate off-street parking is of insufficient depth to avoid overhanging and/or encroaching on the public footpath and create a safety hazard for pedestrians. The development is contrary to the Dublin City Development Plan, Appendix 5, Parking Cars in Front Gardens and would set an undesirable precedent. The proposal would, therefore, be contrary to the proper planning and sustainable development of the area.

(2) The proposed vehicular parking at the front of the site would be out of character with the pattern of development in this residential conservation area. The proposed development, by itself, or by the precedent it would set for similar development in the area, would seriously injure the amenities of the area and of the property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

3.2.2. Basis of Planning Authority's decision.

#### 3.2.3. Other Technical Reports

3.2.4. **Engineering Department Drainage Division:** No objection to the proposed development subject to conditions.

3.2.5. **Transportation Planning Division:** Recommends that planning permission be refused on the basis that the proposed vehicular entrance would constitute a safety hazard for pedestrians and is contrary to development plan standards for parking cars in front gardens.

3.2.6. **City Archaeologist:** No objection to the proposed development subject to conditions.

### 3.3. **Prescribed Bodies**

3.3.1. **Minister for the Arts, Heritage, Regional, Rural and Gaeltacht Affairs:** None received.

3.3.2. **Irish Water:** None received.

### 3.4. **Third Party Observations**

3.4.1. One third party observation was received from Philip O'Reilly, No. 18 Grosvenor Place, Rathmines, Dublin 6. The issues which are raised can be summarised as follows: (1) the garden is too small to accommodate off-street parking, which would destroy the historic setting and character of this residential conservation area, and (2) development plan policy restricts off-street parking on Z2 zoned land.

## 4.0 **Planning History**

4.1. None.

### 4.2. **Planning History in the Vicinity**

4.3. **Planning Authority Reg. Ref. 3336/21; ABP Ref. 311882-21:** Planning permission sought for removal of front boundary railings, replacement of garden with permeable paving and the creation of 1 no. off-street car parking space at No. 9 The Crescent, Donnybrook, Dublin 4. This site is located to the south of the current appeal site.

4.4. Dublin City Council issued Notification of the Decision to Refuse Permission for this application on 11<sup>th</sup> October 2021 for the same 2 no. reasons issued in relation to this appeal case. This decision is subject to a concurrent first party appeal before the Board.

4.5. **Planning Authority Reg. Ref. 3337/21; ABP Ref. 311884-21:** Planning permission sought for removal of front boundary railings, replacement of garden with permeable paving and the creation of 1 no. off-street car parking space at No. 11 The Crescent, Donnybrook, Dublin 4. This site is located to the south of the current appeal site.

4.6. Dublin City Council issued Notification of the Decision to Refuse Permission for this application on 11<sup>th</sup> October 2021 for the same 2 no. reasons issued in relation to this

appeal case. This decision is subject to a concurrent first party appeal before the Board.

## **5.0 Policy and Context**

### **5.1. Dublin City Development Plan 2016-2022**

### **5.2. Land Use Zoning**

- 5.2.1. The site is subject to land use zoning “Z2” (Residential Neighbourhoods – Conservation Areas) which has the objective “to protect and/or improve the amenities of residential conservation areas”. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.

### **5.3. Development Management Standards**

- 5.3.1. Poorly designed off-street parking in the front gardens of protected structures and in conservation areas can adversely effect the special interest and character of these sensitive buildings and areas. Proposals for off-street parking in the front gardens of such buildings will not normally be acceptable where inappropriate site conditions exist, particularly in the case of smaller gardens where the scale of intervention is more significant – and can lead to the erosion of the character and amenity of the area (section 16.10.18 refers).
- 5.3.2. 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 subject to the criteria identified in Section 16.10.18 of the development plan.
- 5.3.3. Proposals for off-street parking in the front gardens of protected structures and within conservation areas will not be permitted in a number of circumstances, including: (1) where there is insufficient area to accommodate a parked car in the front garden, (2) where proposals would result in the removal of the entire front boundary of the property, (3) where off-street parking is proposed in terraces or streets that are characterised largely by pedestrian entrances with few vehicular access openings, such proposals will be examined on their own merits and will be subject to the criteria identified in Section 16.10.18 of the plan.

#### 5.4. **Appendix 5: Road Standards for Various Classes of Development**

- 5.4.1. **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 design standards set out in the planning authority's leaflet 'Parking Cars in Front Gardens' shall also apply.

#### 5.5. **Natural Heritage Designations**

- 5.5.1. None.

### 6.0 **The Appeal**

#### 6.1. **Grounds of Appeal**

- 6.1.1. A first party appeal against Dublin City Council's decision to refuse permission for the proposed development has been lodged by Tyler Owens Architects on behalf of the applicant, which can be summarised as follows:

- The proposed off-street car parking is a fundamental requirement of the applicant, which will enable them to remain mobile and independent.
- The local car park opposite the subject site has limited spaces, is nearly always occupied, and does not facilitate electric car charging.
- The applicant will be prohibited from contributing to carbon reduction should planning permission be refused.
- No. 17 The Crescent has removed their railings and boundary wall to facilitate off-street car parking. Thus, the inappropriate precedent argument is not valid.
- The character of Donnybrook village is changing, including larger developments, with increased densities, mix and accommodation types. It is unreasonable to allow the village to change and grow, while at the same time, prohibiting the applicant from adapting accordingly to this new environment.
- These new developments will increase the parking demands on the existing public car park.

- Fear of being clamped when parked on the public footpath to facilitate deliveries and concerns over blocking access to Donnybrook Garda Station.

6.1.2. The appeal includes a copy of a concurrent appeal submission from Brendan Tangney, No. 11 The Crescent in relation to proposed off-street car parking at this property (Planning Authority Reg. Ref. 3337/21; ABP Ref. 311884-21 refers). The content of this submission generally reflects the grounds of this appeal case.

## 6.2. **Planning Authority Response**

6.2.1. None received.

## 6.3. **Observations**

6.3.1. One observation has been made on the appeal by Philip O'Reilly of No. 18 Grosvenor Place, Rathmines, Dublin 6. No new issues have been raised (see section 3.4.1 of this report).

## 7.0 **Assessment**

7.1. I am satisfied that the main issues for consideration in this case include:

- Compliance with Development Plan Policy
- Appropriate Assessment

7.2. Each of these issues is addressed in turn below.

### 7.3. **Compliance with Development Plan Policy**

7.3.1. The roads and footpath standards for residential development are set out in Appendix 5 (Section 5.1) of the development plan, which confirms that 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.

7.3.2. In assessing the proposed development, the Transportation Planning Division of Dublin City Council noted that there was little manoeuvring space to the front of the dwelling and that an opened car door within the space would impact on the public footpath. It was also noted that pedestrian and cycle access to the dwelling would be hampered by the proposed car parking space and that it would require extensive

dishing of the public footpath. It was considered that the width of the proposed vehicular entrance significantly exceeds development plan standards, would impact negatively on the public footpath and potentially result in hazardous manoeuvres, resulting in a substandard space with parked vehicles overhanging the public footpath and obstructing pedestrians. As such, it was recommended that planning permission be refused for the proposed development as reflected in reason no. 1 of the Planning Authority's Notification of the Decision to Refuse Planning Permission.

- 7.3.3. In considering the issue at hand, I note that the proposed vehicular entrance exceeds the maximum applicable development plan standard by 2.1 m. While the appellant's rationale for the proposed development is reasonable, many dwellings within the city, particularly older ones such as this, have insufficient front garden space to accommodate off-street parking, including for the charging of electric cars. In this regard I note the presence of on-street electric vehicle charging points elsewhere in the city.
- 7.3.4. While I acknowledge that double-yellow lines are in place along both sides of the public road to the front of the site, I further note that pay-and-display car parking is available at the southern end of the street, a short distance from the site. I also note the off-street public car park at the northern end of the street. While the appellant's agent submits that this car park is heavily subscribed, in my opinion, the presence of 2 public car parking options, is a reasonable level of supply in an inner suburban location such as this.
- 7.3.5. In my opinion, the proposed off-street car parking would be unacceptable, having regard to development plan standards and the scale of the dwelling, with the majority of the front garden area given over to the proposed car parking. In my opinion, there is insufficient turning space to the front of the dwelling to facilitate safe access/egress to and from the site, and as such, the proposed off-street car parking would constitute a hazard to pedestrians. As identified by Dublin City Council's Planning Officer, the parallel arrangement of the proposed car parking space to the front of the dwelling would also impede pedestrian access to the dwelling itself.
- 7.3.6. I also consider that the removal of the entire front boundary treatment would serve to diminish the demarcation of the public and private realms, which would have a negative impact on the streetscape of this residential conservation area. As such, I



consider that the proposed development would be contrary to development plan standards concerning Parking in the Curtilage of Conservation Areas as set out in Section 16.10.18 of the plan which states, inter alia, that such parking will not be permitted where there is insufficient area in the front garden, the entire front boundary would be removed, and where it relates to terraces characterised largely by pedestrian entrances.

7.3.7. While the applicant's agent highlights the existing off-street car parking at No. 17 The Crescent, I note that planning permission was granted for this development in excess of 20 years ago and under the provisions of a different development plan (Planning Authority Reg. Ref. 1556/97 refers). I also note that this parking is located to the side of No. 17 The Crescent rather than directly to the front, with the remainder of the original gardens and front boundary treatments along the street remaining intact. Having regard to the foregoing, I do not consider that this development constitutes a reasonable precedent in the context of the current appeal case.

7.3.8. In conclusion, I consider that the proposed development would be contrary to development plan standards for off-street car parking and would have a negative impact on the setting and character of this residential conservation area. As such, I consider that the proposed development would set an inappropriate precedent at this location, which would be contrary to the proper planning and sustainable development of the area.

#### **7.4. Appropriate Assessment**

7.4.1. Having regard to the nature and scale of the proposed development, and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

### **8.0 Recommendation**

8.1. I recommend that planning permission be refused for the proposed development.

## 9.0 Reasons and Considerations

- 9.1. The proposed development, comprising a vehicular entrance of 5.7 m in width, exceeds the maximum permissible width of 3.6 m set out in Appendix 5 of the Dublin City Development Plan 2016-2022. Thus, the proposed development would be contrary to development plan standards and would set a precedent for similar development in the area, which would be contrary to the proper planning and sustainable development of the area.
- 9.2. The proposed vehicular access and car parking area, by reason of the removal of the original iron railings and granite plinth wall and the entirety of the front garden area, would detract from the character and setting of the Residential Conservation Area and would set a precedent for development which would be incompatible with the established character of the area. As such, the proposed development would be contrary to Section 16.10.18 of the Dublin City Development Plan 2016-2022, and would therefore, be contrary to the proper planning and sustainable development of the area.

---

Louise Treacy  
Planning Inspector

13<sup>th</sup> March 2022