



An
Bord
Pleanála

Inspector's Report ABP 312913-22

Development	Widen pedestrian access to create a vehicular entrance and remove tree on public footpath.
Location	83 Ringsend Road, Dublin 4
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4029/21
Applicants	Mairead Gallagher & John O'Reilly
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. refusal
Appellants	Mairead Gallagher & John O'Reilly
Observer(s)	1. Dympna Collins 2. Luke Murphy
Date of Site Inspection	22/04/22
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

No. 82 is a mid-terrace, red brick, two storey dwelling on the south side of Ringsend Road close to its junction with South Lotts Road. The terrace is opposite the Grand Canal Wharf apartments and Dublin Bus Ringsend bus depot. Ringsend Road is relatively wide and well trafficked. On road parking is available along the southern side of the road in front of the terrace. There is a line of semi-mature birch trees on the footpath. Their spacing is irregular in places.

Originally the terrace would have been characterised by small front gardens delineated by walls and/or railings with front pedestrian access only. Save for 2 no. dwellings in the terrace all have developed in-curtilage parking, many of which have the benefit of dished kerbs to the pavement.

The front of No.82 has been paved and is used for in curtilage parking. The front railing has been removed. There is a tree in front of the dwelling.

2.0 Proposed Development

As per the public notices and drawings accompanying the application permission is sought to create a vehicular entrance, remove the tree on the public footpath and dish the kerb of the footpath.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the above described development on the grounds that the removal of the tree would seriously injure the residential amenities of property, would be contrary to section 16.3.3 and Appendix 5 of the city development plan and the Dublin Tree Strategy.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Area Planner's report states that having regard to development plan policy for trees and parking in front gardens and the report from the Transportation Planning Division a refusal of permission is recommended.

3.2.2. Other Technical Reports

Engineering Department – Drainage Division has no objection subject to conditions.

Transportation Planning Division notes that the safe access and egress from the property cannot be achieved without the removal of the tree. Parks, Diversity and Landscape Service Department has indicated that it would not support the removal of the tree. The proposal is contrary to the provisions of Appendix 5 of the development plan. A refusal of permission is recommended.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

I am not aware of any previous planning applications on the site.

I note reference in the Area Planner's report to permissions granted on adjoining sites (Nos. 79 and 85) for vehicular entrances. That relating to No.79 was granted in 2019 (planning ref. 3445/19).

5.0 Policy Context

5.1. Development Plan

5.1.1. *Dublin City Development Plan 2016*

The site is within an area zoned Z2, the objective for which is to protect and/or improve the amenities of residential conservation areas.

Policy MT14 - 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 16.3.3 - Trees

The Dublin City Tree Strategy 2016 provides the vision and direction for long term planning, planting, protection and maintenance of trees, hedgerows and woodlands within Dublin city, and is a material consideration in the determination of planning applications and other development.

The design of vehicular entrances 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 16.38 - 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.

Appendix 5 - Road Standards for Various Classes of 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.

5.1.2. **Guidance document - Parking Cars in Front Gardens**

The basic dimension to accommodate the footprint of a car within a front garden area is 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 and provide safe access and egress from the proposed car parking space, for example near a busy road or a junction with restricted visibility.

Narrow widths are generally desirable and maximum widths will generally only be acceptable where exceptional site conditions exist. Generally the vehicular opening shall be at least 2.5 metres or at most 3.6 metres in width and shall not have outward opening gates.

The summary principles are:

- a) The front garden shall still give the impression of being a front garden.
- b) New work to the front boundary should be sympathetic to that existing and to the street
- c) Where a gate pier or gate support has to be removed, it should be reused or reproduced in a new position.

5.1.3. **Dublin Tree Strategy 2016-2020**

Section 3.3.3 reiterates the provisions of Section 16.3.3 of the city development plan.

5.2. **Natural Heritage Designations**

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by Architectural Drafting Services on behalf of the appellants can be summarised as follows:

- The absence of a driveway prohibits the purchase of an electric car. A charging point on a public road would be a hazard.
- Limited parking in the area disadvantages them as residents and persons visiting them.
- Approx. 32 houses on Ringsend Road have driveways with 24 having dished kerbs. 4 no. have gardens with 3 having trees on the boundaries. The proposal would not set a precedent.
- The fence was removed as it was rusted and falling apart.
- The tree is unsuitable for an urban environment. The roots have caused the pavement to buckle and is a trip hazard. The condition of the footpath causes flooding of the pavement and garden during rainfall.
- The tree is encroaching on overhead electrical wires.
- A tree felling licence is not required for a tree within 10 metres of a road which is dangerous to persons using the road on account of its age or condition or within 30 metres of a building subject to the buildings being in place before they were planted.
- The trees were planted in the early 2000's without any consultation. The tree should have been planted between houses thereby not preventing the creation of a vehicular access.
- The Dublin Tree Strategy allows for the removal of trees for a new or widened vehicular entrance. Where it cannot be conveniently relocated a financial contribution in lieu will be required. The appellants have no objection to this requirement.

6.2. Planning Authority Response

None received.

6.3. Observations

Submissions have been received from

1. Dympna Collins
2. Luke Murphy

The observers are in favour of the proposed development. The submissions can be summarised as follows:

- There are 4 no. parking spaces, only, outside the houses. Residents find it difficult to find parking.
- In curtilage parking is safer for residents.
- The sap from the trees is problematic whilst the roots have buckled the footpath and are a trip hazard.
- The tree is the only one directly in front of a house.

7.0 Assessment

As noted on day of inspection the vehicular entrance has been provided with the front of house paved and used for parking. This assessment pertains to the nature and extent of the development for which permission is sought. Any issues arising in terms of enforcement are within the remit of the planning authority, only.

The terrace of two and three storey dwellings are within an area zoned Z2, the objective for which is to protect and/or improve the amenities of residential conservation areas. As noted on day of inspection No. 83 is one of only three in the terrace of 35 no. dwellings (No. 95 at end of terrace is in commercial use) for which in curtilage parking has not been developed. The width and treatment of the vehicular accesses varies throughout. Some dwellings have removed the front boundary in its entirety with no wall, gates or railing whilst others retain a front boundary delineation, largely with railings and gates. From the details

accompanying the application it is intended to provide for a 3.6 metre width vehicular entrance with the retention of the remaining section of railings. The entire front is to be paved. Should permission be granted I recommend that a condition be attached restricting the width of the access to 3 metres, that the area of garden not required for the parking space be retained in soft landscaping, with the erection of a railing to match that originally in place along the remainder of the front boundary. The reason for same is so as to protect the amenities of the residential conservation area.

On street parking is available along the front of the terrace but due to the extent of in curtilage parking and vehicular accesses the extent of available parking spaces is severely constrained. However, as noted, the vast majority of residents in the terrace are not reliant on this on street parking. Demand would arise from residents with 2nd cars, visitors and possibly residents in the apartment complex opposite. Having regard to the existing pattern of development I submit that the loss of the parking space that would arise as a consequence of the development would not be seen to be contrary to the development plan provisions as set out in section 16.38 which precludes off street parking in the front gardens where residents are largely reliant on on-street car parking and there is a strong demand for such parking.

I submit that the crux of the issue arising relates to the proposed removal of the tree immediately in front of the house to allow for safe access and egress.

In the region of 8 no. semi-mature birch trees currently line the terrace. They are not evenly spaced along the road which may suggest that regard was had to vehicular accesses that existed at the time of planting. The footpath in the vicinity of some of the trees including that in front of the appeal site is exhibiting stress from the root system.

As per section 16.3.3 of the city development plan and the provisions of the Dublin City Tree Strategy 2016, impact on trees is a material consideration in the determination of planning applications. The design of a vehicular access is required to be considered to avoid conflicts with street trees. Notwithstanding, the plan and strategy allow for removal of on street trees to facilitate a new or widened vehicular entrance where conflict is unavoidable subject to compensatory planting or payment of a financial contribution in lieu. Whilst the trees along the road provide for a level of amenity, I consider that the loss of 1 no. tree to allow for the appellants to provide

in curtilage parking comparable to that facilitated to the majority of dwellings in the terrace is reasonable and would not unduly detract from the amenity as provided. As noted previously the trees are not evenly spaced and the removal would not upset the symmetry. On this basis I consider that the application of the said development plan provisions to be appropriate in this instance. The removal of the tree will allow for safe access and egress from the in curtilage parking.

Appropriate Assessment

Having regard to the location of the site and the nature and scale of the proposed development it is concluded no appropriate assessment issues arise as 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

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the existing pattern of development in the vicinity of the site including the pattern of vehicular accesses serving the terrace of residential properties on Ringsend Road of which the appeal site forms part, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the amenities of the residential conservation area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance 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. The development shall be amended as follows:
 - a) The vehicular entrance shall be a maximum width of three metres.
 - b) A railing to match that which originally delineated the front boundary shall be erected along the remainder of the front boundary.
 - c) Other than the area for the proposed parking space the front garden shall be maintained in soft landscaping.
 - d) Entrance gates, if erected, shall be designed so as not to open outwards.

Revised plans with the necessary alterations shown thereon shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interests of visual amenities of the residential conservation area.

3. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act, 2000, in respect of tree planting within the public domain to replace the tree to be removed as part of the development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Pauline Fitzpatrick
Senior Planning Inspector

April, 2022