



An
Bord
Pleanála

Inspector's Report 313076-22

Development	Permission for part demolition of front boundary wall for vehicular access and provision of new boundary fence
Location	40A York Road, Dun Laoghaire
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21A/1128
Applicant(s)	Vincent Beirne
Type of Application	Planning permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Vincent Beirne
Observer(s)	None
Date of Site Inspection	29 th April 2022
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located on York Road c.10m south of the junction with Tivoli Terrace North in Dun Laoghaire. York Road is a busy road which links the western end of the shopping district at the southern end with the junction of Mounttown Road and Tivoli road at the northern end. The street is fairly straight and has a footpath on each side and the levels rise from south to north. There are double yellow lines on both sides of the road for most of its length. Several bus routes travel along the road including the 46A.
- 1.2.** York Road is characterised by mainly mature residential properties on reasonably sized plots which generally front onto the road with front gardens. There is a mix of terraced and detached houses and a variety of architectural styles dating from different historical periods. The appeal site, No. 40A, forms part of a terrace of 2-storey houses facing York Road on the eastern side of the road and is setback behind a front garden and boundary wall. The adjoining house to the immediate north is No. 40 which is situated on the corner with Tivoli Terrace North and the house to the south is No. 39. There is a community centre on the northern (opposite) corner of Tivoli Terrace North. The Presbyterian Church is located opposite the site on York Road and there is a terrace of 8 no. red-brick terraced houses to the south of the church.
- 1.3.** The site area is given as 0.0238m². The planning reports indicate that No. 40 and No. 40A were previously subdivided and that they share an off-street parking area at the front of No. 40, which is accessed off Tivoli Road North. There is a pedestrian access only from York Road, which serves both properties and there is currently no dividing fence between the two front gardens. There is a letter on file from the owner of No. 40 which states that the owner is prepared to cede part of her land to facilitate the applicant to have a separate vehicular entrance and off-street parking space.

2.0 Proposed Development

- 2.1.** It is proposed to demolish most of the front masonry wall and to introduce a new vehicular gated entrance and a pedestrian entrance, which would provide access to a proposed parking space to the front of the dwelling. It is also proposed to provide a new railing/fence along the boundary between the two front gardens. The width of

the vehicular entrance would be 3.105m to 5.35m. Two piers would be erected on either side of the gated entrance and wrought iron gates would be provided. It is proposed to re-landscape the front garden/driveway area by removing the existing paved areas and most of the grassed areas. A mix of gravel and grassed areas with planting along the southern boundary of the front garden would be provided.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for one reason:

Having regard to the location of the site, it is considered in respect of the additional vehicular entrance, that the proposed development would lead to endangerment of public safety due to the lack of adequate visibility for vehicles, buses on York Road for a vehicle exiting from the new vehicular entrance, therefore, the proposed development would endanger public safety by reason of a traffic hazard or obstruction of road users or otherwise. It is considered that the proposed development would adversely affect the use of the road by traffic.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report noted that there has been an extensive planning history on the site including a refusal (as part of a split decision) relating to a similar proposal. It was further noted that the Council's policy set out in Section 8.2.4.9 of the CDP, regarding Vehicular Entrances and Hardstanding Areas, is that the maximum width of a driveway for a single residential unit is 3.5m. Reference was made to the report from the Transport Planning section (summarised below) which recommended refusal on road safety grounds.

Refusal was, therefore, recommended as the proposed vehicular entrance would create a traffic hazard and that it would set an undesirable precedent for similar development in the surrounding area.

3.2.2. Other Technical Reports

Transport - Planning - (22/02/22) recommended refusal on the grounds of endangerment of public safety due to obstruction and restricted visibility. It would, therefore, endanger public safety by reason of traffic hazard or obstruction of road users. It was noted that York road is a very busy access route into dun Laoghaire from Monkstown, Dundrum and the N11 and is served by a number of bus route, 46A, 63, 63A, 75, 75A and 111.

Drainage – Planning – stated no objection subject to all new hardstanding areas not to be discharged to the sewer but to be infiltrated locally via gravel or with a specifically designed permeable stone system. Appropriate measures to ensure that no surface water enters the public realm and where gravel is provided, it shall be contained such that it does not transfer to the public road or footpath.

3.3. Prescribed Bodies

3.3.1 None.

4.0 Planning History

PL06D.232895 (D08A/1308) – Planning permission **refused** by Board in 2009 at 40/40A York Road following refusal by P.A. for construction of a new end of terrace house (2.5 storeys and 2 bedrooms) with vehicular parking to front and private front and rear gardens for each dwelling. This represented an additional house attached to the northern end of No. 40. Reasons for refusal based on overdevelopment of site, visual amenity and inadequate off-street parking which would lead to parking on street and associated traffic hazard.

D08A/0972 – Permission **refused** for construction of end-of terrace 3-storey house with proposed entrance from Tivoli Terrace North. This was a similar proposal to D08A/1308.

D08A/0859 – permission **granted** for provision of a vehicular entrance at side (North) boundary of front garden facing York Road with access from Tivoli Terrace North providing 3 no. parking spaces at No. 40 and 40A York Road. Conditions included omission of electric gates and replacement with manual or no gate.

D08A/0268 – Spilt decision – Refused permission for provision of vehicular entrance with automatic sliding gate at front boundary on York Road with provision for four car parking spaces at front and granted permission for rear pedestrian access gates from Tivoli Terrace North at Nos 40 and 40 A York Road. The reasons for refusal included impact on visual amenity due to the unsightly nature of excessive hard landscaping area and excessively wide entrance. The second reason related to the proposed Quality Bus Corridor on York Road which would give rise to a traffic hazard and obstruction of road users.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan 2022-2028

5.1.1 Since the planning authority decision on the 22nd February 2022, a new development plan has been adopted for the area. Dun Laoghaire Rathdown County Development Plan 2022-2028 was adopted on the 9th and 10th of March 2022 and came into effect on the 21st April 2022. This is now the relevant statutory plan for the area.

5.1.2 The site is zoned Objective A for which the objective is to “To provide residential development and improve residential amenity while protecting the existing residential amenities”. Relevant policies contained in Chapter 11 Built Heritage and Chapter 12 Development Management include the following.

5.1.3 Built Heritage

11.4.3.2 Policy Objective HER20: Buildings of Vernacular and Heritage Interest

– Retain, where appropriate, and encourage the rehabilitation and suitable reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of the area and streetscape in preference to their demolition.

11.4.3.3 Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Features

– Encourage the retention and reinstatement of features that contribute to the character of exemplar nineteenth and twentieth century buildings, and estates such as roofscapes, boundary treatments and other features considered worthy of retention.

12.4.8 – Vehicular entrances and hardstanding areas – requires that vehicle entrances and exits be designed to avoid traffic hazard for pedestrians and passing traffic. For single residential dwellings, the maximum width of an entrance is 3.5m.

12.4.8.2 Visual and physical impacts

- Vehicular entrances and on-curtilage parking should not normally dominate a property's frontage. In areas characterised predominantly by pedestrian entrances and few, if any, vehicular entrances, proposals for driveways and on-curtilage parking will be assessed on their own merits but should be resisted. Applications for double width entrances will normally be resisted.
- Impacts on features like boundary walls and pillars, and roadside grass verges and trees outside properties will require to be considered, and entrances may be relocated to avoid these. Any boundary walls, entrance piers and gates and railings shall normally be finished to harmonise in colour, texture, height and size to match the existing streetscape.
- There can be negative cumulative effects from removal or creation of front boundary treatments and roadside elements in terms of area character and appearance, pedestrian safety, on-street parking, drainage and biodiversity – and these will be assessed in consideration of applications.
- Proposals for off-street parking need to be balanced against loss of amenity (visual and physical) and will be considered in light of overall traffic flows and car parking in the vicinity.

12.4.8.3 Driveways and hardstanding areas –

A minimum of one third of the front garden areas should be maintained in grass or landscaped in the interest of urban greening and SUDS. In the case of smaller properties – such as small, terraced dwellings – this requirement may be relaxed. Each driveway, parking and hardstanding area shall be constructed in accordance with SUDS and include measures to prevent drainage from the driveway entering onto the public road. Where unbound material is proposed for driveway, parking and hardstanding areas, it shall be contained in such a way to ensure that it does not transfer on to the public road or footpath on road safety grounds.

5.2. Design Manual for Urban Roads and Streets (2013)

These statutory guidelines focus on the role and function of streets within urban areas where vehicular traffic interacts with pedestrians and cyclists. The manual generally seeks to achieve better street design in order to encourage more people to choose to walk, cycle and use public transport by making the experience more pleasant and safer, and thereby promoting more healthy lifestyles. It outlines practical design measures to support and encourage more sustainable travel patterns in urban areas. These include guidance on materials and finishes, street planting, design and minimum width of footways (including minimum widths, verges and strips), design and location of pedestrian crossings, kerbs and corner radii and shared surfaces.

5.3. Natural Heritage Designations

South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024) lie approx. 1km to the north.

6.0 The Appeal

6.1. Grounds of Appeal

The first-party appeal may be summarised as follows:

- **Background** – for historical reasons, the appellant has to share the parking area of the neighbouring dwelling which can be problematic at times with several cars parked there, necessitating the moving of cars for access from time-to-time. He also wants to buy an electric car and wants his own space with access to a charging point at the front of his own property.
- **Planning history and context** – off-street parking is prevalent on this side of York Road. A series of Google Earth images are provided to illustrate the point. It is submitted that planning permission has been granted for entrances at Nos. 52, 53, 55, 46 and 47 York Road, respectively. (Reference nos. are provided). It is stated that in these cases the Transportation Division had not expressed any concerns regarding the proposed entrances and that in the

current case, the opinion appears to have changed. The planning authority's assessment that there are few existing vehicular entrances nearby is disputed.

- **Road safety** – it is considered that the visibility is excellent in both directions as the site is located on a straight stretch of road. The traffic on the road is lighter than indicated in the planning authority reports and the bus services are less frequent than claimed. The proposal will allow a vehicle to enter the site in forward gear, turn around within the site and leave in forward gear. It is confirmed that the gateway is not proposed to be electronic.
- **Impracticality of existing situation** – The existing vehicular access arrangements are impractical and result in the applicant having to drive around the block in order to approach the dwelling in the correct direction. York Road is not one where parking on the carriageway is possible.
- **Visual amenity** – the design of the gates is high quality and will not cause serious injury to the visual or residential amenities of the area. The proposed internal railings are also considered to be appropriate.

6.2. Planning Authority Response

6.2.1 The P.A. has not responded to the grounds of appeal.

7.0 Assessment

7.1. It is considered that the main issues arising from the appeal are as follows:-

- Planning history and context
- Road safety
- Visual amenity

7.2. Planning history and context

7.2.1. The grounds of appeal place much emphasis on what was considered to be the prevalence of existing vehicular access points along York Road and included reference to several planning permissions over the past couple of decades, which it

was submitted, demonstrate that the planning authority has not had any issues with the introduction of vehicular entrances on York Road until now. The grounds of appeal also point out that the historical situation whereby the applicant has to share off-street parking with the neighbouring dwelling is problematic and has become a bit of a nuisance. I have reviewed the planning application references provided in the grounds of appeal, as well as some others not referenced, and have also reviewed the extensive planning history on the site. It is considered that these matters need to be explored before the substance of the appeal is considered.

7.2.2. In respect of the previous history on the site, there were four planning decisions between June 2008 and September 2009 which related to the combined property of Nos. 40 and 40A. My understanding was that the two properties were in single ownership at that time. The first decision (D08A/0268) was a split decision whereby a proposal to provide off-street parking for 4no. cars to the front of the two houses with access directly from York Road was rejected by the planning authority on visual amenity and traffic hazard grounds. The provision of 2no. pedestrian entrances from Tivoli Terrace North was granted as part of the same decision. The second application (D08A/0859) was successful (November 2008) as it proposed the provision of 3 no. off-street parking spaces in front of both dwellings, combined with open space and landscaping of the front garden areas, which was accessed off Tivoli Terrace North. Conditions required the omission of the electric gates and the proposed speed ramp on Tivoli Terrace North. Subsequently, permission was refused (D08A/0972 and D08A/1308) for the construction of a third dwelling at the northern end of the terrace, one of which was refused by the Board (232895) on the grounds of overdevelopment, visual amenity and traffic hazard.

7.2.3. In light of the foregoing, it is clear that the property the subject of the current application/appeal has been provided with off-street parking facilities in the front garden area of Nos. 40 and 40A, albeit on a shared basis, and that the provision of an entrance directly off York Road was unacceptable to the planning authority in 2008, as it was in 2022. This would represent the introduction of a second entrance to these properties. Furthermore, the proposed development would involve the retention of the existing large off-street parking area (3 spaces) and the increase in the amount of garden space in front of the two dwellings given over to off-street parking, with the associated reduction in open space and landscaping.

- 7.2.4.** The appellant has disputed the planning authority's view that there are few properties with vehicular entrances in the vicinity of the site. In terms of the planning history references provided in the grounds of appeal, it is noted that the properties in question are located further down York Road, Nos 46, 47, 52, 53 and 55. The decisions appear to have been made on a case by case basis, and took account of matters such as whether such entrances already existed in a block of similar houses, the length of the road frontage and whether any alternatives existed. In the majority of cases where permission was granted, the frontage was in excess of 10 metres and the width of the entrance was generally no more than 3.5m. It is noted that in respect of No. 54 York Road, the Board had refused permission for the retention of such an entrance in 2001 (PL06D.127909), and I note that this was a narrow-fronted property with c.7m road frontage.
- 7.2.5.** It is noted that permission was refused in 2004 for a vehicular entrance at a property closer to the appeal site, No. 25 Cambridge Terrace, on the opposite side of the road. This site forms part of a terrace where there are currently no vehicular entrances. Another property closer to the site, No. 34A obtained permission for a vehicular entrance (D18A/0122), but the access was provided off Tivoli Terrace South, not York Road. A more recent permission was granted under D21B/0019 at 38 York Road, but this property already had an entrance onto York Road prior to the application.
- 7.2.6.** From my site inspection and review of the planning history in the vicinity, I would accept that there is a variety of situations on York Road which is composed of a diverse range of property types and architectural styles etc., with many properties having vehicular entrances, but consider that there are few, if any, directly comparable entrances to that currently being proposed at No. 40A. The proposal would remove the majority of the road frontage, leaving c.1.6m of boundary wall. I would also agree with the planning authority that there are few vehicular entrances in the immediate vicinity of the site, with most of the properties on the opposite side of the road having pedestrian only entrances, and those on the same side, having larger frontages and/or long established vehicular entrances. Furthermore, the site of the proposed development has previously been granted planning permission for off-street parking with access from Tivoli Road North, which involves three spaces to serve two houses. Thus, I do not accept that the planning authority is being

inconsistent or unfair in the approach taken in this instance. Furthermore, I would accept the planning authority's view that an alternative exists which represents a safer solution to the applicant's parking requirements. The arrangement of parking spaces on the shared driveway is a matter for the applicant to resolve with the adjoining owner.

7.3. Road safety

- 7.3.1.** The current Dun Laoghaire Rathdown County Development Plan 2022-2028 at paragraph 12.4.8 states that vehicular entrances should be designed to avoid traffic hazard for pedestrians and passing traffic. For single residential dwellings, the maximum width of an entrance is 3.5m. It is further noted that the cumulative effect of the removal of a front boundary treatment can result in negative effects in terms of pedestrian safety and on-street parking.
- 7.3.2.** It is considered that the removal of the front boundary treatment in this instance would remove more than half of the existing frontage, which is already reduced to 5.54 metres for historical reasons. It is considered that this would give rise to increased hazard for pedestrians and passing traffic. As cars are entering and leaving the driveway, pedestrians would have to stop and wait or step out onto the road. York Road (R119) forms part of a strategic route which links Dun Laoghaire harbour area with the N11, via the R829 and the R830 (Kill Avenue). It is an important artery through the area. York Road is a long straight stretch of urban road with double yellow lines along most of its length. For this reason, traffic tends to travel at speed, particularly up the hill towards Tivoli Road. I do not accept the appellant's view that the bus routes are infrequent and that its business is overstated, as one of the bus routes that uses this road is the high frequency 46A and the traffic levels on the road vary throughout the day and week.
- 7.3.3.** In light of the above, it is considered that the proposed development is not in compliance with the current Development Plan policy and would give rise to a traffic hazard for pedestrians and passing traffic.

7.4. Visual amenity

- 7.4.1.** Paragraph 12.4.8.3 of the CDP also addresses the issues of visual impact. It is stated that vehicular entrances and on-site parking should not dominate frontages of properties and that a minimum of a third of the front garden should be maintained in grass or landscaped space, and should incorporate SUDS. Furthermore, it is stated that the cumulative effects of adjoining properties removing boundary treatments can alter the character and appearance of an area. The proposed development would result in almost two-thirds of the front garden area of No. 40A being given over to parking/driveway. This would be in addition to the majority of the garden area in front of No. 40 being developed in grasscrete which has the appearance of concrete in its current condition. As stated previously, this area was intended to serve as off-street parking for both dwellings as shared parking. The submitted plans (D08A/0859 which granted this permission) indicated that the remainder of the forecourt area would be landscaped as open space/amenity area.
- 7.4.2.** It is considered that the paving over of a significant portion of the garden together with the retention of the permitted hardstanding area in front of No. 40 would dominate the frontage of these historic properties and would detract from the character of the streetscape. The character of this stretch of York Road is partly defined by the front boundary treatment which is mainly comprised of masonry walls with landscaped gardens in front of the terraced houses which are set back from the public road. The removal of a section of wall together with the expansion of the hardstanding/parking area would detract from the character and visual amenity of the area and is contrary to the policy of the P.A. as set out in 12.4.8 of the current CDP.

7.5. Environmental Impact Assessment

Having regard to the nature, size and location of the proposed development, 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.

7.6. Appropriate Assessment

South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024) lies approx. 1km to the north. Given the scale and nature of the development, the distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

- 8.1.** It is recommended that planning permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the character of York Road and of the terrace of which the proposed development forms an integral part, the design concept of which is based on terraced houses set back behind enclosed, landscaped gardens with low-level boundary walls, it is considered that the proposed development which would remove a section of the front boundary treatment, and introduce a new vehicular entrance and an associated expanded driveway to the front of both the house and the adjoining dwelling, would detract from the character of the terrace and the streetscape and would seriously injure the visual amenities of the properties in the vicinity. The proposed development would, therefore, be contrary to the provisions of the Dun Laoghaire Rathdown County Council Development Plan 2016-2022, would create an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development would give rise to a traffic hazard and obstruction of road users by reason of the additional vehicular entrance and driveway on this residential and the additional turning movement on this strategic roadway and would be contrary to policy 12.4.8 of the Dun Laoghaire Rathdown County

Development Plan 2022-2028 and to the proper planning and sustainable development of the area.

Mary Kennelly
Planning Inspector

1st May 2022