



An
Bord
Pleanála

Inspector's Report ABP-313447-22

Development	Proposed widening of existing vehicular access, proposed construction of a front wall and sliding entrance gate, and ancillary site works.
Location	37 Oscar Square, St. Catherine's, Dublin 8
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	WEB1094/22
Applicant(s)	Ciaran Mulqueen
Type of Application	Permission
Planning Authority Decision	Grant, subject to 7 conditions
Type of Appeal	Third Party -v- Decision
Appellant(s)	Robert Parkinson
Observer(s)	None
Date of Site Inspection	25 th August 2022
Inspector	Hugh D. Morrison

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2.0 Site Location and Description

- 2.1. The site is located on the eastern side of Oscar Square, which forms part of the Housing scheme known as “The Tenters” to the south-west of Newmarket. This site accommodates a two-storey semi-detached dwelling house, a driveway on the exposed northern side of this dwelling house, a narrow front garden, and a more substantial rear garden.
- 2.2. The front boundary and the northern boundary, which is shared by the adjoining residential property at No. 36 Oscar Square, are enclosed by means of metal fences that comprise uprights with supporting struts and rails. The struts encroach into the front garden and onto the driveway. The vehicular and pedestrian entrance to the site is gated with a pair of non-original, ornamental, wrought iron gates.

3.0 Proposed Development

- 3.1. The proposal would entail the widening of the existing vehicular access and entrance by 1980 mm, from 2220 mm to 4200 mm, and the construction of a front wall and a louvred sliding entrance gate.
- 3.2. The proposal would also entail ancillary site works, i.e., the dishing of the footpath to the front of the widened vehicular access and entrance and site works to accommodate parking to the front of the property within the site.

4.0 Planning Authority Decision

4.1. Decision

Permission was granted, subject to 5 conditions, including the following two:

2(a) Driveway entrance shall be at most 3.0m in width and shall not have outward opening gates.

Reason: In order to ensure a satisfactory standard of development.

6(b) Any new paving shall be carried out in a sustainable manner so that there is no increase in surface water run-off to the drainage network as per the Dublin City Development Plan 2016 – 2022.

Reason: In the interest of orderly development.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The case planner accepts the advice of Transportation Planning as to the width of the vehicular access/entrance. In doing so “exceptional circumstances” are not held to exist. He/she recognises that 3m would be insufficient to allow the use of the front garden as a parking space, but, as there are two such spaces to the side, this is considered to be sufficient.

4.2.2. Other Technical Reports

- Dublin City Council
 - Transportation Planning: No objection, subject to conditions, including No. 2(a) cited above.
 - Drainage: No objection, subject to conditions, including No. 6(b) cited above.

5.0 Planning History

None

6.0 Policy and Context

6.1. Development Plan

Under the Dublin City Development Plan 2016 – 2022 (CDP), the site is shown as lying within an area that is zoned Z1, wherein the objective is “To protect, provide and improve residential amenities.”

Under Appendix 5 of the CDP, road and footpath standards for residential development are set out, including the following

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 aforementioned leaflet comments on the cited dimensions to the effect that “Narrower widths are generally more desirable and maximum widths will generally only be acceptable where exceptional site conditions exist.”

The appellant cites the following provisions of the CDP:

- Policy SN2: “To promote neighbourhood developments which build on local character as expressed in historic activities, buildings, materials, housing types or local landscape in order to harmonise with and further develop the unique character of these places.”
- Section 16.2.2.3 addresses domestic extensions and alterations.
- Section 16.2.2.4 addresses boundary walls and railings. It states the following:

Dublin City Council will seek to ensure that development will not result in the loss or insensitive alteration of characteristic boundary walls or railings.

Where appropriate, boundary features will be reinstated. New boundary walls or railings should:

- *Replicate an existing or traditional pattern which is characteristic of the immediate locality.*
 - *Use a design and materials appropriate to the existing or proposed building and street-scene.*
- Objective MTO47: “To develop a city centre pedestrian network which includes facilities for people with disabilities and/or mobility impairments based on the principles of universal design.”
- Under Map J, the site is shown as lying in Zone 2 for parking purposes. Under Table 16.1, the maximum number of parking spaces per dwelling is 1.

6.2. Natural Heritage Designations

Portions of Dublin Bay are the subject of European designations.

6.3. EIA Screening

Domestic access and parking facilities are not a class for the purposes of EIA.

7.0 The Appeal

7.1. Grounds of Appeal

- The appellant cites Policy SN2, Sections 16.2.2.3 & 4, Table 16.1, and Objective MTO47 of the CDP. The proposal would either breach or not be in accordance with these provisions.
- The view is expressed that the proposed dishing of the footpath would be unnecessary and contrary to the principles of universal design promoted by Objective MTO47. Instead, a short ramp would suffice to facilitate access.
- The case planner's report implies that parking in the applicant's front garden would be unacceptable and that his two spaces to the side would suffice: Why then widen the vehicular access/entrance? If additional width is deemed necessary for ease of access/egress, then 2.5m would be an appropriate dimension to insist upon.
- The case planner dismisses the need to retain the existing front railings and yet such railings date from the 1920s and remain the predominant front boundary treatment: Policy SN2 would support their retention. These railings are supported by struts that encroach into the front garden – hence the impetus for their removal. However, if parking in the front garden is deemed to be inappropriate, then there is no need for them to go.
- The proposed solid sliding gate would be without precedent in the locality known as The Tenders. Existing gates are of open form and so this pattern should be followed.
- Attention is drawn to the draft Dublin City Development Plan 2022 – 2028, which proposes that The Tenders be designated an ACA – testimony to the quality of its character as a neighbourhood.

7.2. Applicant Response

- The existing driveway is too narrow to allow a car to functionally fit on it, i.e., struts that support the fence along the side of this driveway encroach on the available space and so the opening of car doors is restricted. By contrast, the

neighbour's adjoining parallel driveway is not so encroached upon and so it is effectively 450 mm wider.

- Any suggestion that, under the proposal, three cars could be accommodated is disavowed: The applicant only intends to accommodate one car.
- The appellant has submitted a photograph of a VW Transporter Van parked partially on the existing driveway. However, this photograph illustrates the lack of functionality associated with this driveway, e.g., the front of the van overhung the public footpath so that its side doors would have the necessary clearance to open.
- The appellant objects to the proposed dishing of the public footpath and yet such dishing is a commonplace where driveways are in-situ. The applicant's proposal would ensure that off-street parking at his property would occur, thus avoiding the incidence of cars parking on footpaths that is typical of the area.
- The applicant's response is accompanied by a copy of his own appeal of Condition No. 2 attached to the Planning Authority's permission. This appeal was lodged outside the relevant statutory time period and so it was not validated.

7.3. Planning Authority Response

None

7.4. Observations

None

7.5. Further Responses

None

8.0 Assessment

- 8.1. I have reviewed the proposal in the light of the Dublin City Development Plan 2016 – 2022 (CDP), the submissions of the parties, and my own site visit. Accordingly, I

consider that this application/appeal should be assessed under the following headings:

- (i) Access and parking,
- (ii) Streetscape and visual amenity,
- (iii) Water, and
- (iv) Appropriate Assessment.

(i) Access and parking

- 8.2. The applicant's site is presently served by a gated vehicular entrance that is 2220mm wide. In turn, this entrance serves a driveway along the exposed northern side elevation of the applicant's two-storey semi-detached dwelling house. This elevation contains the "front" door to this dwelling house. The driveway is 9700mm long and so its capable of accommodating 2 cars. While the width of this driveway is 2500mm, the available space is encroached upon by 2 struts that support uprights comprised in the metal fence along the common boundary with the adjoining property to the north.
- 8.3. The applicant explains that the combination of the siting of the "front" door to the dwelling house and the effective narrow width of the driveway means that the functionality of the driveway is impaired and so the opening of car doors and associated driver/passenger movements are impeded. Accordingly, the impetus for the proposal is to make available the existing front garden as a parking space, which would, once the new boundary treatment is factored-in, have a width of 2700mm, thereby allowing greater ease of movement.
- 8.4. Under the proposal, the existing site entrance would be widened by 1980 mm, from 2220 mm to 4200 mm. This additional width would facilitate access to and egress from the proposed front parking space. Under Condition 2(a) of the Planning Authority's permission, the said increase in width would be limited to 780mm, i.e., a new width of 3000mm. This width would facilitate greater ease of access/egress to the existing driveway, but it would be insufficient to access/egress the proposed front parking space. Such negation is intended to ensure that the site does not have the potential to accommodate the parking of 3 cars. And yet the applicant insists that he has no intention of parking more than 1 car on the site.

- 8.5. Under Appendix 5 of the CDP, 3600mm is the maximum width that can be entertained for a domestic entrance and exceptional circumstances need to exist to justify its specification.
- 8.6. During my site visit, I observed that the proximity of a telegraph pole to the existing site entrance serves to negate any opportunity for on-street parking between this pole and this entrance. Accordingly, an increase in the width of the site entrance to 3600mm would have no bearing on the availability of on-street parking. Unlike under the applicant's original proposal, the width of 3600mm would not overlap with the telegraph pole and so the risk of collision with the same would be abated. I, therefore, take the view that these factors amount to site specific exceptional circumstances than would warrant the specification of the maximum width.
- 8.7. The public footpath in front of the site is c. 2200mm and it is raised only slightly above the level of the adjoining carriageway. Accordingly, the proposed dishing of this footpath to correspond with the widened site entrance would be only shallow in form. Thus, while the appellant expresses concern over the likely experience of mobility users negotiating such dishing, they would, in practise, encounter little change in the public footpath.
- 8.8. Presently, the site has a driveway that can accommodate 2 cars, albeit, as outlined above, in a manner that is constrained. Under the proposal, a third space would be provided. Under the CDP, new build dwellings in the locality should be served by no more than 1 space. While I acknowledge the applicant's parking intentions, circumstances may change over time, and so I take the view that it would be appropriate to sterilise the eastern end of the existing driveway for parking purposes by means of a physical impediment. In so doing no net increase in parking on the site would be assured, along with the realisation of the opportunity to secure independent movement to and from the 2 spaces that would be in-situ.
- 8.9. I conclude that an increase in the width of the site entrance to 3600mm would be justified and that the potential for off street parking should undergo no net change in the number of spaces that would be available on-site.

(ii) Streetscape and visual amenity

- 8.10. At present the site is bound to the front and on either side by a metal fence composed of uprights with supporting struts and railings. This fence appears to be

original to the site and it would have been the front boundary treatment throughout The Tenters housing scheme when it was first constructed.

- 8.11. Under the proposal, the applicant proposes to replace the front fence with a wall of similar height. He also proposes to re-site the more southerly of the two gate pillars in conjunction with the widening of the site entrance and the specification of a sliding gate in this entrance. This gate would be composed of steel, and it would be louvred and painted black.
- 8.12. The appellant takes exception to the proposed replacement of the fence and the new front boundary treatment. He contends that the existing fence remains the dominant means of enclosure to front gardens in the neighbourhood and that, as under the draft Dublin City Development Plan 2022 – 2028 The Tenters housing scheme is to be given recognition from a conservation perspective, it should be retained.
- 8.13. I consider that the fence in question undoubtedly contributes to the character of the housing scheme. However, during my site visit, I observed that the equivalent of this fence has been replaced in frequent instances by other treatments, e.g., walls, railings, and hedgerows. I, therefore, take the view that in advance of the adoption of the draft City Development Plan, it would be unreasonable to insist that the applicant retain his fence.
- 8.14. I conclude that the proposed front boundary treatment would be compatible with the variety of such treatments in the surrounding neighbourhood and so objection to it would not be justified.

(iii) Water

- 8.15. The proposal would increase marginally the sealed surface area of the site. In this respect, Condition No. 6(b) of the Planning Authority's permission is justified in seeking to ensure that any surface water run-off should not drain to the adjoining carriageway of Oscar Square. I consider that the essence of this condition should be reproduced in a condition requiring the applicant to demonstrate how he would meet this objective.

(iv) Appropriate Assessment

- 8.16. The site is neither in nor near to a European site. Under the construction phase of the proposal, I assume that best practice construction methodologies would be

adopted to minimise any surface water run-off from the site. Under the operational phase, no surface water run-off to the public stormwater drainage system would be allowed. Accordingly, no Appropriate Assessment issues would arise.

- 8.17. Having regard to the nature, scale, and location of the proposal, and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

That permission be granted.

10.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2016 – 2022, it is considered that, subject to conditions, the proposal would entail an appropriate rearrangement of parking provision on the site, in conjunction with a widened site entrance. Likewise, the replacement front boundary treatment would be compatible with the variety of such treatments in the surrounding neighbourhood and so it would be compatible with visual amenity. No water or Appropriate Assessment issues would arise. The proposal would thus accord with the proper planning and sustainable development of the area.

11.0 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.
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	Reason: In the interest of clarity.
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) The site entrance between its gate posts shall be a maximum of 3600mm and the width of the dishing of the adjoining public footpath shall correspond to this widened entrance.</p> <p>(b) The final 2000mm length of the existing driveway at its eastern end shall be permanently physically altered to remove it from potential use for vehicular parking.</p> <p>(c) The new front parking space shall be the subject of surface water drainage arrangements that do not rely upon the adjacent public stormwater drainage system under the carriageway in Oscar Square.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In order to comply with Appendix 5 of the Dublin City Development Plan 2016 – 2022, in order to ensure no net increase in parking spaces on the site, and in the interest of sustainable drainage.</p>
3.	<p>The public footpath shall be dished in accordance with the requirements of the planning authority.</p> <p>Reason: In the interest of pedestrian safety.</p>
4.	<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 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>

Hugh D. Morrison
Planning Inspector

29th August 2022