



An
Bord
Pleanála

Inspector's Report

ABP-314702-22

Development

Permission for: i) partial removal of front railings and plinth wall; ii) dished footpath and kerb; to provide a new vehicular entrance with double gates; for 1 no. on-site car parking space and associated landscaping and external works, to include permeable gravel and paving surfaces.

Location

No. 19, Serpentine Avenue,
Ballsbridge, Dublin 4, D04 F6E8.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

4408/22.

Applicant(s)

Pat & Noreen Rice.

Type of Application

Planning Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party.

Appellant(s)

Pat & Noreen Rice.

Observer(s)

Philip O'Reilly.

Date of Site Inspection

7th day of December, 2022.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. No. 19 Serpentine Avenue, the appeal site is located on the eastern side of Serpentine Avenue, c109m to the north of its junction with the R118, Merrion Road, in the city suburb of Ballsbridge, c400m to the east of Ballsbridge village and c4km by road to the south of Dublin's city centre.
- 1.2. The site contains a period end of terrace brick faced dwelling that is setback from the public domain of Serpentine Avenue by a symmetrically placed period painted pedestrian gate flanked by a railed roadside and side boundary sitting on top of a cut granite plinth.
- 1.3. The setback area between the front elevation and the road contains a pedestrian path providing connection from the public domain to the front door with the main area comprised of gravel with some planting towards the front and side boundary.
- 1.4. On-street car parking is present along the eastern roadside carriage of Serpentine Road in the immediate vicinity of the site.
- 1.5. A set of photographs of the site and its environs taken during the course of my site inspection are attached.

2.0 Proposed Development

- 2.1. Permission for: i) partial removal of front railings and plinth wall; ii) dished footpath and kerb; to provide a new vehicular entrance with double gates; for 1 no. on-site car parking space and associated landscaping and external works, to include permeable gravel and paving surfaces.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 5th day of September, Dublin City Council issued a notification of decision to **refuse** planning permission for the following single stated reason:

“The proposed development would result in the loss of on-street car 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, therefore, seriously injure the amenity of 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

The Planning Officer’s report is the basis of the Planning Authority’s decision.

3.2.2. Other Technical Reports

Transportation: Recommends refusal.

Drainage: No objection.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. 1 No. 3rd Party Observation was received by the Planning Authority during the course of its determination of this planning application objecting to the proposed development on visual amenity and being a type of development contrary to the local planning provisions grounds.

4.0 Planning History

4.1. Site

4.1.1. None.

4.2. Setting

4.2.1. **No. 17 Serpentine Avenue - ABP PL29S.248883 (P.A. Ref. No. 2139/17):**

On appeal to the Board permission was **granted** for a development described as the partial demolition of building, construction of 2 dwellings with extension, reconstruction

of building and roof, vehicular entrance alteration, boundary wall, gardens, and ancillary works. Of note Condition No. 5 restricted the width of the entrance to at least 2.5m or at most 3.6m in width and shall not have outward opening gates; it required any alterations to the public road network including removal and/ or relocation of on-street spaces shall be agreed in writing with Dublin City Council. Works shall be conducted at the applicant's expense through to it restricted the car parking in the front garden to one car parking space.

No. 17 Serpentine Avenue does not form part of the terrace group set piece No. 19 forms part of and has a significantly wider roadside boundary.

Decision date: 07/06/2018.

- 4.2.2. **No. 23, Serpentine Avenue - ABP Ref. 308832 (P.A. Ref. No. WEB1627/20):** On appeal to the Board planning permission was **refused** for a development comprising of the creation of a vehicular access to include, dished footpath and kerb, new entrance with inward opening gates and a permeable paving and gravel finish. The single stated reason for refusal reads:

“The proposed development would result in a 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 proposal would, therefore seriously injure the amenity of property in the vicinity and as such would be contrary to the proper planning and sustainable development of the area”.

Decision date: 18/03/2021.

- 4.2.3. No other recent and/or relevant Board decisions in the vicinity.

5.0 Policy Context

- 5.1.1. The Dublin City Development Plan, 2022-2028, came into effect on the 14th day of December, 2022, under which the site is zoned: ‘Z1 – Sustainable Residential Neighbourhoods’.
- 5.1.2. Section 14.7.1 of the Development Plan in relation to ‘Z1’ zoned land states that the land use objective is: “to protect, provide and improve residential amenities” and that

the vision is: “for residential development in the city is one where a wide range of high quality accommodation is available within sustainable communities, where residents are within easy reach of open space and amenities as well as facilities such as shops, education, leisure and community services”.

5.1.3. Section 15.6.13 of the Development Plan deals with Boundary Treatments, Walls, fences, metal railings and gates used to define spaces and states that: “their usage all impact on the visual character and the quality of a development”.

5.1.4. Volume 2 – Appendix 18 of the Development Plan is relevant.

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 grounds of appeal can be summarised as follows:

- The Board is sought to overturn the Planning Authority’s decision.
- Reference is made to local planning provisions.
- The proposed development has been designed to successfully integrate with the existing site boundaries and the parking area would be surfaced in permeable materials.
- There are examples of off-street parking along this street.
- There is also on-street car parking on the street.
- Due to ill health, there is a need for easier access for car parking to their property.

- It is very difficult to secure on street car parking due to the pressure on it resulting in spaces not often being available in easy reach of their dwelling.
- Though a loss of one car parking space on Serpentine Avenue would arise the proposed development, if permitted, would compensate for that by providing one off-street car parking space.
- Reference is made to planning history pertaining to this type of development in the vicinity.
- This proposal would serve the parking needs of the applicants which are contended to be medically related.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. On the 12th day of October, 2022, the Board received an observation from Philip O'Reilly, with an address of 18 Grosvenor Place. It can be summarised as follows:

- The Planning Authority made the correct decision.
- Over the years local planning provisions have set out a clear objective to uphold the supply of on-street parking facilities for the benefit of the greater community. In turn this further benefits the protection of original frontages as well as front gardens of traditional properties like this.
- Reference is made to precedents where permission was refused for this type of development.
- The proposed development, if permitted, would give rise to the loss of at least 1.5 on street car parking spaces, which would in turn be contrary to Development Plan provisions.
- Serpentine Avenue is an extremely busy through traffic artery.
- The front garden of this property is too small to accommodate the proposal.
- The development to the west is not comparable to the development sought. .

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1. Overview

7.1.1. Having inspected the site and its setting together with having had regard to the information presented by the parties to the appeal and in the course of the planning application and all relevant planning provisions and guidance, I consider the key planning issues relating to the assessment of the appeal can be considered under the following broad headings.

- Principle of the Proposed Development
- Compliance with Planning Provisions
- Traffic Safety
- Planning Precedent
- Other Matters Arising

7.1.2. The matter of '*Appropriate Assessment*' also requires examination.

7.1.3. In addition, I note that the applicants have put forward medical reasons as to why they are seeking the proposed amendments to the front roadside boundaries of No. 19 Serpentine Avenue and the provision of an off-street car parking space in their front garden area.

7.1.4. This justification for the proposed development as put forward by the appellant in their grounds of appeal is not supported by any robust evidence. Nor could this reason, in itself, in terms of the proper planning and sustainable development of the area as provided for under local planning provisions which are discussed in further detail below, be considered to overcome and justify the proposed development. On the basis of the adverse outcomes of such a development that would give rise too. Including as set out below the loss of public on-street car parking on Serpentine Avenue; the loss of integrity to the roadside boundary of a key period set piece of four terrace dwellings; the potential loss of street trees in order to accommodate sight lines

for the safe movement of vehicles from the proposed development through to the potential additional traffic hazard and road safety concerns that would arise to road users including vulnerable road users.

- 7.1.5. As such my assessment below is confined to the planning considerations arising from the proposed development and the proposed developments compliance with the proper planning and sustainable development of the area, in particular the provisions set out in the Dublin City Development Plan, 2022-2028, which is the applicable Development Plan.

7.2. Principle of the Proposed Development

- 7.2.1. The appeal site forms part of a larger parcel of suburban land zoned '*Z1: Sustainable Residential Neighbourhoods*' where the objective is to protect, provide and improve residential amenities and where residential developments are considered to be generally acceptable development in principle, subject however, to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

7.3. Compliance with Planning Provisions

- 7.3.1. The Planning Authority refused the proposed development sought under this application which in summary comprises of the partial removal of front railings and plinth wall; the installation of a dished footpath and kerb to the front of the modified boundary; with these works facilitating the provision of a new vehicular entrance and the space in the setback area between the modified roadside boundary and the front elevation of No. 19 Serpentine Avenue to accommodate one off street car parking space. The latter would also include associated landscaping and surfacing works to the front garden and modified public footpath.
- 7.3.2. The Planning Authority's reasons for refusal considered that the proposed development would give result in the unacceptable loss of on-street car parking and thereby reducing the supply to residents on this street in a manner that would be contrary to local planning provisions.
- 7.3.3. In particular Policy MT14 of the Dublin City Development Plan, 2016 to 2022, which I note has been recently superseded by the Dublin City Development Plan, 2022 to 2028.

- 7.3.4. The Planning Authority in their given reasons for refusal also considered that the proposal would seriously injure the amenity of properties in the vicinity and for these reasons the proposed development would be contrary to the proper planning and sustainable development of the area.
- 7.3.5. The appellant by way of their appeal to the Board consider that the proposal whilst meeting their needs would not give rise to any practical loss of on-street car parking as a result of the lost on-street car parking space being replaced by an off-street car parking space for a residential dwelling on the street. As such the two scenarios would balance each other out.
- 7.3.6. On this point they also note that there is a high-demand on-street parking spaces along Serpentine Avenue and this results in difficulty for them parking in the immediate vicinity of their property. With this in turn resulting in inconvenience for them. Particularly as they contend one of the applicant's personal health circumstances.
- 7.3.7. In addition, the appellants consider that the proposed development by way of the design proposed would integrate with its streetscape scene and therefore would not result in any diminishment or otherwise of the visual amenities of the area.
- 7.3.8. The observer in this case seeks that the Board uphold the decision of the Planning Authority in the interests of safeguarding the existing on-street car parking provision, the adverse precedent the proposed development, if permitted, would give rise to through to the decision to refuse permission is in the interest of proper planning and sustainable development of the area.
- 7.3.9. In relation to the local planning provisions of relevance under Volume 2 – Appendix 18 Section 4.1 of the recently adopted Development Plan states that: *“Dublin City Council will preserve available on-street parking, where appropriate. However, the space currently occupied by on-street parking may be needed in the future for strategic transportation projects or active travel infrastructure. 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 or where there is a demand for public parking serving other uses in the area”*.
- 7.3.10. In addition, Section 4.3 of the said Appendix states that: *“proposals for off-street parking in the front gardens of single dwellings in mainly residential areas may not be*

permitted where residents rely on on-street car parking and there is a strong demand for such parking”.

- 7.3.11. Having inspected the site setting it is clear that there is a significant reliance on the on-street car parking spaces to cater for the parking demands of the dwelling units aligning it.
- 7.3.12. The length of the roadside boundary of the site is c6.78m and the drawings show that a 3m separate vehicle entrance is proposed. The length of modified pedestrian footpath together with the area to be dished under the proposed development sought are not indicated in the accompanying submitted drawings.
- 7.3.13. At a minimum the proposed development would result in the reduction in length by one car parking space from the linear car parking space provided alongside the roadside edge of Serpentine Avenue to the immediate front of No. 19 for cars to park.
- 7.3.14. As such I consider that the proposed development is contrary to Section 4.1 and 4.3 of the Development Plan in a similar manner to Policy MT14 of the previous Development Plan (2016-2022) of the Planning Authority’s reason for refusal of the proposed development.
- 7.3.15. Of further concern, Section 4.3.1 of the said Appendix states that: *“entrances shall be designed to avoid creation of a traffic hazard for passing traffic and conflict with pedestrians. Where a new entrance onto a public road is proposed, the Council will have regard to the road and footway layout, the impact on on-street parking provision (formal or informal), the traffic conditions on the road and available sightlines. For a single residential dwelling, the vehicular opening proposed shall be at least 2.5 metres or at most 3 metres in width and shall not have outward opening gates”.*
- 7.3.16. It also sets out: *“the basic dimensions to accommodate the footprint of a car within a front garden are 3 metres by 5 metres. It is essential that there is also adequate space to allow for manoeuvring and circulation between the front boundary and the front of the building”*; and it states that: *“a proposal will not be considered acceptable where ... safe access and egress from the proposed parking space cannot be provided”.*
- 7.3.17. In relation to the proposed development, I raise a concern that the footpath width is not dimensioned in the drawings provided. Nor are as said the modifications to it and

the context of the proposed development relative to the roadside edge where on street car parking is present.

- 7.3.18. Further the drawings submitted with this application also do not include any sightlines or indication of the presence of mature trees along the public domain in the immediate vicinity of the proposed development which not only contribute significantly to the character of their streetscape scene but also to the biodiversity of this suburban setting.
- 7.3.19. In addition to this when the proposed landscaping and gate opening outcome is factored into the design put forward it is clear that there would not be a clear depth of 5m for the off-street car parking space proposed.
- 7.3.20. Though I acknowledge that this concern could be addressed by modifications to the gate design of concern the dimensions of the front garden are unable to accommodate any manoeuvring of a vehicle parked thereon and as such the design is one where forward access and egress onto the public domain would be achieved.
- 7.3.21. Moreover, whilst there is adequate lateral separation distance between the mature streetscape trees to either side of the proposed vehicular entrance and modified public domain, their presence does obstruct views for vehicles accessing as well as egressing from it.
- 7.3.22. On this point I note that in all cases Section 4.3.2 of Volume 2 – Appendix 18 of the Development Plan that proposed vehicular entrances shall not interfere with any street trees. As such the removal of street trees to achieve improved sightlines to accommodate this type of development would not be consistent with this Section of the Development Plan.
- 7.3.23. The obstruction of sightlines also arises from the modest width of the footpath and the linear provision of on-street car parking on either side of the proposed vehicular entrance.
- 7.3.24. Of further concern Section 4.3.5 of the said Appendix of the Development Plan, in relation to the treatment of front boundaries, states that: *“when considering any alterations, minimal interventions are desirable and proposals should aim to be complementary or consistent to others in the area which are of a high standard and in keeping with the overall character and streetscape”*.

- 7.3.25. In this case, whilst the subject property forms part of a terrace group this terrace group is characterised by two distinctly different architectural approaches but sharing highly coherent in design, layout, and treatment front as well as roadside treatment. In terms of the roadside boundaries of these properties these consist of a highly intact painted cast iron railings on granite plinths that are carried through into the side boundary treatment of these properties. With these having a patina of age that add to their visual authenticity as appreciated from the public domain of the appeal site's setting.
- 7.3.26. Further these original roadside boundaries are highly intact and are only punctuated by pedestrian gates.
- 7.3.27. Against this context the proposed development would erode the set piece it forms part of.
- 7.3.28. In particular the integrity of it and No. 21 Serpentine Avenue, its matching pair immediately adjoining it to the north as appreciated from the public domain.
- 7.3.29. With the built heritage and visual integrity and intactness of these two period properties as appreciated from the public domain of Serpentine Avenue contributing positively to its streetscape scene as well as its unique sense of place and identity.
- 7.3.30. Similarly, the erosion of what are highly intact and coherent with neighbouring properties roadside boundary treatments; the loss of highly intact period roadside boundary materials that are one of the key features of this dwelling and adjoining period properties; together with the further erosion of the original function of the semi-private originally designed to be green landscaped space to the front of the terrace group consisting of the subject property, No.s 21, 23 and 25 would further diminish the visual amenities of the area as well as erode the historic pattern of development that prevails in this suburban setting. Whilst at the same time having the potential to give rise to an undesirable precedent.
- 7.3.31. Having regard to the terrace group of four residential dwellings where there is a vehicular entrance this vehicular entrance has been incorporated with the pedestrian gate that resulted in less loss of original built heritage fabric.
- 7.3.32. An approach which is advocated in the Development Plan for this type of development and an approach not proposed in the design and layout for the proposed development.

7.3.33. Based on the above considerations I consider that the proposed development, if permitted, would be contrary to the planning provisions of the Development Plan, would diminish the amenities of the area and has the potential to give rise to a development that would add to traffic hazards as well as road safety issues for road users, including vulnerable road users. For these reasons, I consider that the proposed development would be contrary to the proper planning and sustainable development of the area.

7.4. Traffic Safety

7.4.1. In addition to the concerns raised above I share the concerns raised by the Transportation Planning Section with regards to the proposed development and I note that their report recommended a refusal of permission. The concerns raised in their report overlap with the concerns raised in the previous section of this assessment, in particular, the loss of on-street car parking being contrary to local planning provisions. They also note that the proposal is not similar to that at No. 17A and 17B Serpentine Road with these containing a vehicular entrance at the time permission was sought for a replacement under P.A. Ref. No. 2139/17. They also note that Serpentine Avenue is predominantly served by on-street car parking.

7.4.2. To this I also note at the time of my inspection there was heavy flow of traffic along Serpentine Avenue and there was a high demand on parking bays adjacent to and in the vicinity of No. 19 Serpentine Avenue, the subject site.

7.4.3. I therefore concur with the Planning Authority's Transportation Departments recommended reasons for refusal of the proposed development sought under this application.

7.5. Planning Precedent

7.5.1. Under ABP PL29S.248883 (P.A. Ref. No. 2139/17), which I note relates to a recent planning appeal case determined by the Board and with the development sought under this planning application including a vehicular entrance and with this component of the development granted, subject to a number of safeguards.

7.5.2. In addition, to the more recent refused appeal case of ABP Ref. 308832 (P.A. Ref. No. WEB1627/20), which I note related to No. 23, Serpentine Avenue and with the Board

refusing permission for the same substantive reasons as is the case under this planning application.

- 7.5.3. The site contexts for these appeal cases including P.A. Ref. No. 2139/17, in my view are not the same and it is in accordance with proper planning procedures that each planning application is determined on its individual merits.

7.6. Other Matters Arising

7.6.1. Drainage

Section 4.3.4 of the said Appendix states that: *“the combined effect of paving a number of gardens in a street or area increases the risk of flooding and pollution (oil, brake dust, etc.). The use of Sustainable Drainage Systems (SuDS) can help remove pollutants from surface water runoff and reduce overall flood risk in the city while also enhancing amenity and biodiversity. In accordance with Policy SI22, proposals should indicate how the design aims to control surface water runoff in a sustainable fashion through the use of permeable or porous surfaces such as gravel and green areas etc.”*

The Development Plan seeks safeguarding soft landscaping in front gardens and has a presumption against the loss of front gardens in their entirety.

I note; however, that the existing site context is one where the main front garden area is surfaced with gravel.

Therefore, should the Board be minded to grant permission I recommend that it include suitable worded condition to appropriately deal with surface water drainage to the required standard.

8.0 Appropriate Assessment

- 8.1. 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.

9.0 Recommendation

9.1. I recommend that permission is **refused**.

10.0 Reasons and Considerations

1. The proposed development would result in a loss of on-street parking which would reduce the supply available to residents on the street and in the wider area. As such the proposed development would be contrary to Volume 2, Appendix 18 Sections 4.1 and 4.3 of the Dublin City Development Plan 2022- 2028, which seeks to retain on-street parking as a resource for the city as far as practicable. In addition, the traffic generated, and the traffic movements of the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users as a result of the design, layout, and the lack of adequate sightlines.

Moreover, the proposed development as well as the design approach to this period property, would be out of character with the intrinsic character and features of its host dwelling, as well as its streetscape scene in a manner that would seriously injure visual amenities as well as would set a precedent for further inappropriate development in the area.

The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

22nd December, 2022.