



An
Bord
Pleanála

Inspector's Report

ABP-314967-22

Development	Permission is sought for a vehicular entrance, car parking space and all associated site works to front.
Location	No. 62, North Strand Road, Dublin 3.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	WEB1734/22.
Applicant(s)	Aidan Lavelle.
Type of Application	Planning Permission.
Planning Authority Decision	Refused.
Type of Appeal	First Party.
Appellant(s)	Aidan Lavelle.
Observer(s)	None.
Date of Site Inspection	14 th day of February, 2023.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

1.1. No. 62 North Strand, the appeal site, is located on the western side of the heavily trafficked North Strand (R105), circa 540 m to the south west of its intersection with the Fairview Strand (R803) and c555m to the north east of its intersection with Seville Place (R101), Amiens Street and Killarney Street. The site has a stated 185m² area and it contains an attractive 2-storey period brick terrace property that is setback from the public domain of North Strand by a period cast iron railed front and side boundary. To the front these are set on tall granite plinths and are punctuated by a pedestrian gate and separate vehicle entrance. No. 62 North Strand forms part of a group of four originally matching dwellings that are situated to the immediate south of North Strands junction with Nottingham Street. The subject property is the second from the southern end of this terrace group with the North Strand Church bounding the terrace group to the south. streetscape scene has a strong period character with a variety of land uses present.

2.0 Proposed Development

2.1. Planning Permission is sought for a vehicular entrance, car parking space and all associated site works to front.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 4th day of October, 2022, the Planning Authority decided to refuse permission for the development sought under this application following stated reasons:

“1. Having regard to the location of the site on one of the main bus and active travel arterial routes serving the suburbs and City Centre, it is considered that the vehicular entrance at this location results in potential vehicular and pedestrian conflict, the creation of hazardous manoeuvres across a busy road and endangers public safety by reason of a traffic hazard and obstruction of road users. The development is therefore contrary to the proper planning and sustainable development of the area.”

2. *The vehicular entrance is contrary to Policy MT7 of the Dublin City Development Plan 2016 – 2022, which seeks to improve the city’s environment through the development of new and safe walking and cycling routes. The development sets an undesirable precedent for other similar developments, which would in themselves and cumulatively, 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 decision is the basis for the Planning Authority decision. It includes the following comments:

- Entrance appears to have been constructed c2018.
- The gates are similar to the existing railings.
- Transportation recommendations are concurred with.
- The entrance would lead to potential vehicular and pedestrian conflict, the creation of hazardous manoeuvres across a busy road and would endanger public safety by reason of a traffic hazard and obstruction to road users.
- No AA or EIA issues arise.
- Concludes with a recommendation of refusal.

3.2.2. Other Technical Reports

Transportation Report (22/09/22): This report recommends refusal. Its comments are of particular relevance to the grounds of appeal and are therefore summarised as follows:

- Reference is made to the fact that North Strand Road forms part of the City Centre to Clontarf Project which is noted is currently under construction. The Part 8 report for this project sets out the following objective:

“Provide a high quality, continuous and consistent cycle route to cater for commuter and recreational cycling on one of the busiest cycle routes in Dublin City”.

- Any proposed application must support this projects layout and not prejudice the safe operation of this key mobility corridor.
- There is no precedent for this type of development.
- The site is located along the BusConnect Corridor (Clontarf to City Centre) H Spine which is a high frequency bus service route and will improve following the completion of the project.
- North Strand is a busy arterial road with four lanes of traffic with a Bus Lane either side into and out of the city centre, with the site being 2km from O’Connell Street.
- Off-street parking accessed directly from North Strand is limited and where present appear to have the benefit of planning permission.
- The site has a depth of 5.4m and width of 6m and is currently served by a 2.6m vehicular entrance and a separate 1.5m pedestrian gate. Yet the public notices and the drawings suggest this development is proposed.
- This development is contrary to Policy MT7 of the previous Development Plan.
- Serious concerns are raised with the provision of in-curtilage parking directly accessed off a critical bus, cycle, and pedestrian arterial route in/out of the north east of the city.
- This site has access to a lane to the rear and should consider vehicle access to the site from this point instead.
- This development, if permitted, would set an undesirable precedent.
- Concludes with a recommendation of refusal.

Drainage: No objection, subject to standard safeguards, including compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

4.1. Site and Setting

- 4.1.1. No recent and/or relevant planning history.

5.0 Policy Context

5.1. Development Plan

- 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 'Z2'. The stated zoning objective for such land is: *"to protect and/or improve the amenities of residential conservation areas"*.
- 5.1.2. 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"*.
- 5.1.3. Volume 2 – Appendix 18 of the Development Plan is relevant.

5.2. Natural Heritage Designations

- 5.2.1. None within the zone of influence.

5.3. EIA Screening

- 5.3.1. The subject appeal does not relate to a class of development which requires mandatory EIA. Having regard to nature, scale, and extent of the development, together with the brownfield serviced nature of the site and its setting, 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal can be summarised as follows:

- Consultation with the Roads Section in 2019 raised no concerns.
- There is a vehicular entrance at No. 63 North Strand and therefore it is not equitable to refuse the one proposed under this application.
- There is no availability for on-street car parking permits for this residence and as a result there is a need for parking within their property.
- Car parking within the property is needed to charge their EV car, loading and maintenance of their property. With this need increased by the reduction in width of the pedestrian footpath to the front from 4.5m to 2m as part of the City Centre to Clontarf Cycleway works.
- North Strand is not just an arterial route to the city it is a residential street.
- Increased access points slow down traffic with this having positive benefits on road users and residents.
- It is proposed to install electric gates so these can be opened remotely in advance of turning into the parking space. This provision could be required by condition.
- If the speed limit of North Strand were reduced to 30kmph the traffic movements generated by the entrance would not be hazardous.
- The Board is sought to overturn the decision of the Planning Authority.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. None.

7.0 Assessment

- 7.1. I have carried out an inspection of the site setting, examined the file and the planning history, alongside considered all policies and guidance, the submissions on site. I have assessed that the key issues that require examination in this appeal case and I consider that they primarily relate to those raised by the First Party Appellant in their grounds of appeal submission to the Board. The matter of 'Appropriate Assessment' also requires examination.
- 7.2. Before I commence my assessment of the development sought under this application I raise a concern that the public notices and the drawings pertaining to this planning application indicate that the development sought consists of a new vehicular entrance, car parking space and its associated works to the front of No. 62 North Strand Road, is proposed. That is to say that it is not yet carried out.
- 7.3. Of concern the works have been carried out at some point of time. With the Planning Authority contending based on their available information, that these works are likely to have been carried out in 2018. As such the public notices, the suite of drawings through to the planning application/planning appeal fees for such an application do not reflect the actual development sought. I am therefore of the view that the Board is precluded from granting permission without this significant procedural irregularity being addressed. This would require new public notices, revised drawings through to clarification of whether the fee payment to the Board is correct in this circumstance.
- 7.4. In relation to retention applications, for the purposes of clarity it should be noted that period of time which a development has been in place is immaterial to consideration of a planning application for permission for its retention, which is in effect the situation with regards to the development sought under this application now before the Board for its *de novo* determination. Although there are implications regarding enforcement proceedings. A matter which I am cognisant falls outside of the Boards remit but falls within the remit of the Planning Authority, which in relation to development at the North Strand location of the site is Dublin City Council.
- 7.5. I further note that the Development Management Guidelines for Planning Authorities, 2007, make it clear that, in dealing with applications for retention, they must be considered "*as with any other application*". This is in accordance with planning law and with proper planning practice, in that all applications for retention should be assessed

on the same basis as would apply if the development in question were proposed. Therefore, no account can, or should, be taken of the fact that the development has already taken place.

- 7.6. Further, the provision of a vehicle entrance under the current Development Plan indicates is neither listed as being '*permitted in principle*' or '*not permitted*' on 'Z2', Residential Conservation Area, zoned land. The land use objective for such lands is the protection and/or improvement of the amenities of residential conservation areas. Ultimately all applications for development on 'Z2' zoned land seek to achieve an appropriate balance between protection and improvement of their residential conservation area amenities.
- 7.7. Section 11.5.3 of the Development Plan in relation to 'Z2' land use zonings, states that these areas: "*contribute significantly to the streetscape and to the character of the city*"; "*whilst these areas do not have a statutory basis in the same manner as protected structures or ACAs, they are recognised as areas that have conservation merit and importance and warrant protection through zoning and policy application*"; and, "*the special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special care in terms of development proposals*".
- 7.8. This Section of the Development Plan also sets out that: "*there is a general presumption against development which would involve the loss of a building of conservation or historic merit within the Conservation Areas or that contributes to the overall setting, character and streetscape of the Conservation Area. Such proposals will require detailed justification from a viability, heritage, and sustainability perspective*".
- 7.9. Policy BHA9 is also of relevance in that it sets out that the Council will protect the special interest and character of all of the city's conservation areas, including but not limited to 'Z2' conservation areas and requires that development within or affecting such an areas must contribute positively to its character and distinctiveness.
- 7.10. Of further relance is Development Plan Policy BHA10 which sets out that there is a presumption against the demoliition or substantial loss of a structure that positively contributes to the character of a conservation area, except in exceptional circumstances where such loss would contribute to a significant public benefit.

- 7.11. Section 11.5.3 of the Development Plan also recognises the contribution of important features such as period railings within urban landscapes which provide historic reference which contribute to the character of an area. Especially where they complement the architectural features of other structures including those within 'Z2' conservation area setting.
- 7.12. Added protection is given to street railings, stone setts and associated features, that positively contribute to public realm within areas of historic character under Policy BHA18.
- 7.13. Section 4.3.7 of Volume 2, Appendix 18, of the Development Plan on the matter of parking in the curtilage of conservation areas, reiterates Section 13.4.3 of the Architectural Heritage Protection Guidelines 2011. This Section of the said Guidelines states: *"proposals to remove or alter boundary features could adversely affect the character of the Protected Structure and the designed landscape around it. Widening an entrance or altering railings will alter the scale and visual impact of the gate and gate piers. Relocating a gateway may destroy a carefully designed relationship between the entrance and the main building."*
- 7.14. Section 4.3.7 also states that: *"proposals for parking within the curtilage and 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 and where the historic plinths, decorative railings and gates, historic gate piers, and historic ground surfaces are still intact"*.
- 7.15. Having regards to the above I consider that the principle of the provision of a vehicle entrance and associated modifications to the original boundary treatments of No. 62 North Strand Road, a period terrace property that forms part of a formally designed and highly intact terrace group of four dwellings, that forms part of a designated residential conservation area, to provide an in-curtilage off-street car parking space would be contrary to the above planning provisions and guidance.
- 7.16. With this conclusion on the basis of the loss of original built fabric, its cumulative diminishment of the special character and integrity of the period terrace group it forms part of when considered alongside where similar inappropriate change has occurred at No. 63 North Strand Road. With this further added to by the visual harmony of these

railings alongside those present to the front of St. Columba's Infant National School and North Strand Church of Ireland to the immediate south. Particularly in a situation where this property benefits from a vehicle entrance that opens onto a lane on its rear boundary. This lane is in close proximity to Nottingham Street and during inspection of the site as well as its setting I observed that it was in use by vehicles to gain access to the rear of the terrace group that No. 62 North Strand Road forms part of.

- 7.17. Of additional note to the Board, the space to the rear elevation of No. 62 North Strand Road, does not contain any built structure and having sufficient space therein to accommodate the provision of a single car parking space. Moreover, there is no evidence provided that this space is not used by the occupants for similar off-street car parking by occupants of the subject property.
- 7.18. The applicant has not put forward any exceptional circumstance or indeed circumstance that would justify the provision of a second vehicle entrance with access for vehicles from the public domain of North Strand to serve this single dwelling unit.
- 7.19. This is of particular concern given the fact that North Strand Road itself is a heavily trafficked arterial regional route providing a variety of forms of access into and out of Dublin city centre which is situated circa 2km to the south of the site.
- 7.20. To the front of the site the public domain is one that is in transition as works are carried out on the City to Clontarf Project.
- 7.21. As set out previously in this report above, this project seeks to achieve the objective of providing a high quality, continuous and consistent cycle route to cater for commuter and recreational cycling on what is recognised as one of the busiest city cycle routes.
- 7.22. North Strand also accommodates a BusConnect Corridor on both sides as well as two carriageways of vehicle traffic in either direction. The public footpaths also provide important linkage and connections within this inner city location.
- 7.23. Moreover, on Nottingham Street and Waterloo Road, which are both in easy reach of the site, are pay and display on-street publicly provided car parking spaces. At the time of inspection there were ample available on street car parking spaces on Nottingham Street, which I note is the nearest located to the site. Similarly, there were available spaces on Waterloo Road.

- 7.24. In relation to the design and the layout of the development sought, the depth of 5.4m and width of 6m of the setback in which the car parking space is to be accommodated is inadequate to cater for all vehicle movements accessing and egressing in forward gear from the front garden area.
- 7.25. There is no associated dishing of the adjoining public footpath indicated and the use of this car parking space would inevitably result in additional traffic manoeuvres and obstructions on the footpath and adjoining road carriage.
- 7.26. This would give rise to road safety and traffic hazard issues for road users alongside would hamper the safe and efficient operation of the cycleway, the bus connect corridor and the adjoining road carriage.
- 7.27. Given the importance of this regional arterial route for providing connectivity and linkage safely for all modes of movements including in particular vulnerable road users and vehicles the provision of a car parking space at this location would not be in the public interest but would give rise to significant disamenity to the public domain of North Strand for its users.
- 7.28. This is in addition to the loss of built heritage integrity and the contribution of the subject property as a period-built insertion which forms part of a highly coherent in design, appearance, building to space relationship terrace group that sits in harmony with other built heritage structures and features of interest along this stretch of North Strand Road.
- 7.29. In addition, the proposed design and overall layout results in the entire loss of soft landscaping in the semi-private domain of this terrace property. This magnifies this loss in the terrace group it forms part of and it is of note that Section 4.3.7 of Volume 2, Appendix 18 of the Development Plan, sets out that generally in excess of half of the total area of the front garden exclusive of car parking area, footpaths and hard surfacing should remain in soft landscaping. Moreover, this section of the Development Plan requires SuDS measures to be incorporated into the design.
- 7.30. There is also an excessive loss of original front boundary and granite plinths given that the design is one that contains a 2.6m in width vehicle entrance and a 1.5m pedestrian entrance. This is not insignificant against the 6m width of the front boundary and is contrary to the criteria set out under Section 4.3.7 which advocates every effort to be

made in the preservation and maintenance of the maximum amount of original form and construction through minimum intervention.

- 7.31. Alongside it sets out that pedestrian entrance and proposed vehicular entrance should where possible be combined to form an entrance of no greater than 2.6m and that this combined entrance should be no greater than half the total width of the garden at the road boundary. This is not the case in this situation.
- 7.32. In addition, it seeks reuse of original material. Whilst similar railings appear to have been used they are not on inspection likely to be the original railings given they are of lesser dimensions in terms of their solidity.
- 7.33. My assessment above is based on the recently adopted Dublin City Development Plan, 2022-2028. This plan contains more robust provisions for the type of development sought under this planning application at this location. I also consider there is no planning precedent of relevance to the development sought under this application. On this point, I note that there is no grant of permission that permitted or regularised the vehicular entrance at No. 63 North Strand Road. Having regard to this fact and having regard to the pattern of development in this area it is my considered opinion that there is merit in the Planning Authority's concern that the development sought under this application, if permitted, would give rise to an undesirable precedent.
- 7.34. In conclusion, I concur with the Planning Authority's reasons to refuse permission for the development sought under this application.
- 7.35. **Appropriate Assessment**
- 7.35.1. Having regard to the nature and scale of the development proposed, in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that 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

- 8.1. I recommend that permission is **refused**.

9.0 Reasons and Considerations

1. Having regard to the location of the site on one of the main bus and active travel arterial routes serving the suburbs and City Centre, it is considered that the vehicular entrance at this location results in potential vehicular and pedestrian conflict, the creation of hazardous manoeuvres across a busy road and endangers public safety by reason of a traffic hazard and obstruction of road users. The development is therefore contrary to the proper planning and sustainable development of the area.
2. Having regard to the 'Z2' land use zoning of the site, which has an objective of protecting and/or improve the amenities of residential conservation areas, under the Dublin City Development Plan, 2022-2028, and the provisions set out in the said Development Plan under Section 11.5.3 which indicates that the Council will have a general presumption against development which would involve the loss of a building of conservation or historic merit within the Conservation Areas or that contributes to the overall setting, character and streetscape of the Conservation Area.

Together with the criteria set out under Section 4.3.7 of Volume 2, Appendix 18 of the said Development Plan, including that such development demonstrates access to and egress from the proposed parking space will not give rise to a traffic hazard; vehicular entrances should be combined with existing pedestrian entrances so as to form an entrance no greater than 2.6m and the combined entrance should be no greater than half of the width of the road boundary; every effort be made to preserve and maintain maximum amount of original form and construction through minimum intervention; as well as soft landscaping and SuDS design measures to be incorporated into the design layout approach. These criteria are not demonstrated and/or achieved in the design and layout of the development sought under this application.

This development would seriously injure the visual amenities of the area, would adversely affect the special character and qualities of this residential conservation as well as would by itself, cumulatively or by the precedent which the grant of permission would set for other similar developments, would adversely affect the

use of the R105, a significant arterial route in Dublin city by the use of modest garden spaces as off-street car parking spaces.

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

Patricia-Marie Young
Planning Inspector

7th day of March, 2023.