



An
Bord
Pleanála

Inspector's Report

ABP-315140-22

Development	RETENTION: Demolition of part of boundary wall and construction of vehicular entrance and all associated site works.
Location	56 Grand Canal Street Upper, Ballsbridge, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4813/22
Applicant(s)	Ross Wherity & Laura Elliot
Type of Application	Retention Permission and Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Ross Wherity & Laura Elliot
Observer(s)	N/A
Date of Site Inspection	25 th July 2023
Inspector	Tomás Bradley

1.0 Site Location and Description

The site is located at 56 Grand Canal Street Upper, Dublin 4 (ITM 717566, 733368). It is on the eastern side of the street, just north of the junction with Haddington Road and South Lotts Roads. The site forms part of a terrace extending between South Lotts Road and Emerald Cottages.

A public footpath is located between the site and the public roadway, with a signalised junction to the south. The rear of the sites backs onto a car rental garage. There is a restaurant to the south and another residential property to the north of the site.

The area of the site to which this appeal relates is the land at the front between the residential house and the footpath. Presently, the boundary to the public road is open with no gate. The area is surfaced with gravel with some boundary treatment and vegetation. There were bicycles and refuse bins being stored in the area at the time of the site visit.

2.0 Proposed Development

The proposed development consists of:

- i. retention of the demolition of part of the front boundary wall and the creation of a vehicular entrance and parking area in the front garden
- ii. permission for the installation of a car turntable, gates and all associated site development works and services.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council decided on the 3rd of November 2022 to refuse retention permission and permission for the following reason:

“The driveway which is to facilitate off-street parking is of excessive width and of insufficient depth, and would result in a parked vehicle overhanging and/or encroaching on the public footpath as well as resulting in vehicles reversing onto the

public road in close proximity to a busy road junction, and would endanger public safety be reason of traffic hazard and obstruction of road users. The driveway and the substandard parking area would be contrary to the Dublin City Development Plan 2016-2022, Appendix 5, document 'Parking Cars in Front Gardens'. In addition, the development would set an undesirable precedent for similar sites throughout the city. Accordingly, the development is considered to be contrary to the proper planning and sustainable development of the area."

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planning Report dated 2nd November 2022 sets out the planning history of the site, which includes two previous refusals related to the proposed development the subject of this appeal. These are further addressed in Section 4.0 of this report. The report also considers several interdepartmental reports which are further discussed in Section 3.3.2 of this report.

The planning assessment considers the zoning objective for the area, the planning history of the site, design measures introduced to address the previous refusals of planning permission and the technical report provided by the Transportation Planning Division of Dublin City Council (see Section 3.2.2 below).

The report recommends that permission be refused for the same general reason as outlined in Section 3.1 above. The recommendation is consistent with the recommendation of the Transportation Planning Division (see Section 3.2.2 below).

3.2.2. Other Technical Reports

The Drainage Division report dated 23rd September 2022 does not raise any material issues subject to the applicant complying with the Greater Regional Code of Practice for Drainage Works and incorporating a Sustainable Drainage System.

The Transportation Planning Division report dated 18th October 2022 raised substantive issues, primarily the requirement of the Dublin City Development Plan which states in Appendix 5: Transport and Mobility: Technical Requirements that 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.”

It is highlighted that the basic dimensions to accommodate the footprint of a car within a front garden are 3 metres by 5 metres and that the subject site does not achieve this development standard.

The report also considers a car turntable to facilitate cars exist from the site. In this respect the report does not consider that the turntable would remedy the issues with respect the dimensions of the site.

3.3. Prescribed Bodies

There are no prescribed body submissions in respect of this case file.

3.4. Third Party Observations

There are no third party observations in respect of this case file.

4.0 Planning History

The following files are the most relevant to this appeal:

Dublin City Council Planning Reference 3157/19

Dublin City Council made a split permission on the subject on the 25th July 2019 at 56 Grand Canal Street Upper for:

“the demolition of single storey extensions and storage shed to rear of existing dwelling house, proposed single storey & two storey extension to rear of existing dwelling, internal modifications on ground and first floor level, proposed vehicular entrance and parking area to front garden and associated works.”

In this instance the works related the dwelling house were granted permission, however, works related to the vehicular entrance and parking area were refused permission.

As noted in the Planning Report, works related to the vehicular entrance and parking area were carried out in the intervening period and became the subject to enforcement proceedings. This resulted in a subsequent planning application below.

Dublin City Council Planning Reference 3649/21

Dublin City Council refused permission on the subject site on the 1st of December 2021 at 56 Grand Canal Street Upper for:

“(i) retention of the demolition of part of the front boundary wall and the creation of a vehicular entrance and parking area in the front garden (ii) permission for the installation of a car turntable, gates and all associated site development works and services.”

5.0 Policy Context

5.1. Development Plan

The Dublin City Development Plan 2022-2028 is the relevant plan for the subject site. The site is zoned ‘Zone Z2 Residential Neighbourhoods (Conservation Areas)’. The general objective for such areas is *“to protect and/or protect the amenities of the residential conservation areas.”*

In Chapter 8 Sustainable Movement and Transport of the plan, it is the policy of Dublin City Council *“to provide for sustainable levels of car parking and car storage in residential schemes in accordance with development plan car parking standards (see Appendix 5) so as to promote city centre living and reduce the requirement for car parking.”*

Appendix 5 Transport and Mobility: Technical Requirements which addresses transport and mobility technical requirements should be read in conjunction with Chapter 8 of the plan and details Car Parking Standards specifically in Section 4.0 and in particular Section 4.3 Parking in Front Gardens. The plan considers 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.”*

Section 4.3.1 is prescriptive in terms of the design and dimensions of entrances and parking spaces. Of particular note:

- *“Vehicular 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”.*
- *“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. A proposal will not be considered acceptable where there is insufficient area to accommodate the car safely within the garden without overhanging onto the public footpath, or where safe access and egress from the proposed parking space cannot be provided, for example on a very busy road, opposite a traffic island or adjacent to a pedestrian crossing or traffic junction or where visibility to and from the proposed access is inadequate. In certain circumstances, applicants may be required to demonstrate that vehicles can turn within the site and exit in forward motion.”*

5.2. Natural Heritage Designations

There are no relevant natural heritage designations in respect to the subject site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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.

5.4. Appropriate Assessment

In accordance with Article 6(3) of the EU Habitats Directive (Directive 92/43/EEC) and Regulation 42(1) of the European Communities (Birds and Natural Habitats) Regulations 2011 as amended ('The Regulations'), Appropriate Assessment (AA)

Screening has been undertaken to assess, in view of best scientific knowledge and the Conservation Objectives of relevant European sites, if the development individually or in-combination with other plans or projects will result in likely significant effects on a European site(s).

It is considered Appropriate Assessment is not required as the project individually or in-combination with other plans or projects is not likely to have a significant effect on any European sites. The risk of likely significant effects on European sites can be excluded on the basis of objective evidence.

This is based on the location, scale, extent, and duration of the development, including temporary works, and has not taken account of measures intended to avoid or reduce significant effects on European sites.

6.0 The Appeal

6.1. Grounds of Appeal

A report dated 18th November 2022 prepared by Joe Bonner Town Planning Consultant Ltd. accompanied the appeal in respect of this case file. The grounds of the appeal may be summarised as follows:

- The entrance has been in situ and has not caused any danger to pedestrian safety nor has it resulted in any hazardous manoeuvring across footpaths.
- No 56 is one of the few residential properties on this section of the street to not have a vehicular access. The other properties have cars crossing the footpath and in particular the adjoining property which has a similar spatial dimension and has worked effectively without a turntable arrangement.
- The use of the parking space is not intensive, and the occupant's do not use it on a daily basis.
- The occupants of the residential dwelling have needs which require an off-road parking space.
- The vehicle turntable is proposed to ensure there will be no reversing in/out of the parking space. The use of vehicle turntables is further argued through a number of precedents in the area.

- The applicant will install an electric charging point and will in time purchase an electric car.
- The front boundary wall was a standard masonry wall, and the key character of the area is the building, not the front boundary walls.

6.2. **Planning Authority Response**

No response has been received from Dublin City Council in respect of this appeal.

6.3. **Observations**

No observations were made to An Bord Pleanála in respect of the appeal.

6.4. **Further Responses**

No further responses were sought from any party in respect of this appeal.

7.0 **Assessment**

Having examined the application and appeal documentation on file and having regard to relevant policy and guidance, it is considered that the key issues in this appeal are those raised in the grounds of appeal and in the reason for refusal set out by Dublin City Council including the Principle of Development and Compliance with Development Plan Standards

7.1. **Principle of Development**

The appeal site is located on a site zoned Zone Z2 Residential Neighbourhoods (Conservation Areas)'. The general objective for such areas is "to protect and/or protect the amenities of the residential conservation areas in the Dublin City Development Plan 2022-2028. Alterations to residential properties are acceptable in principle. However, such alterations are subject to the policies and standards set out in the other policies within the plan including traffic safety which are dealt with below.

7.2. **Compliance with Development Plan Standards**

While the appellant has considered certain design measures, in particular the use of a car turntable, to address the reason of refusal from Dublin City Council, it is

considered that the design does not comply with Appendix 5 Transport and Mobility: Technical Requirements which addresses transport and mobility technical requirements. Section 4.3.1 is prescriptive in terms of the design and dimensions of entrances and parking spaces.

The subject site is in close proximity to a busy signalised intersection with both vehicular and pedestrian traffic. The development would be a traffic hazard for passing traffic and conflict with pedestrians having regard to the road and footpath layout, the traffic conditions on the road and available sightlines.

Specifically, the vehicular opening does not achieve the requirement to be at least 2.5 metres or at most 3 metres in width. The drawings indicate that the width of the opening will be 4 metres. It is unclear whether a turntable could operate within this standard of 3 metres.

The site is also limited spatially to accommodate a car and cannot entirely achieve the 'basic dimensions' identified by Dublin City Council. It would be difficult for different and all car types to fit and manoeuvre on the site notwithstanding the introduction of a turntable arrangement.

The plan is also clear that a proposal will not be considered acceptable where safe access and egress from the proposed parking space cannot be provided, for example on a busy road, opposite a traffic island or adjacent to a pedestrian crossing or traffic junction or where visibility to and from the proposed access is inadequate. The proposed development is immediately adjacent to the junction in this instance.

It is noted that several residential dwellings at this location introduced access arrangements on this street in certain locations. It is considered that these are not necessarily examples of acceptable and safe design in the context of the current development plan. Similarly, it is also noted that the examples of turntables used in the area are generally on larger sites.

On this basis it is considered that the proposed development would endanger public safety by reason of a traffic hazard and obstruction of road users.

7.3. Other Issues

Other grounds raised in the appeal are noted and addressed below:

- The appellants contention that the entrance has been in situ for some time now and not caused any safety issue is suppositional and not relevant to the primary issue of compliance with the development plan.
- Similarly, the grounds related to the expected intensity of use of the parking space, the occupants personal need for a parking space, future installation of electronic charging points are not particularly relevant to the compliance with development plan standards.
- The commentary on the character of front boundary wall which was removed is noted but not considered a significant factor in this instance given compliance with development plan standards is the key issue. If the proposed development complied with the development plan standards, it may have been a factor.

8.0 Recommendation

The proposed development is not considered to be consistent with the Dublin City Development Plan 2022-2028 and the proper planning and development of the area. It would endanger public safety by reason of a traffic hazard and obstruction of road users. It is recommended that the retention permission and permission be refused.

9.0 Reasons and Considerations

The proposed development fails to comply with Appendix 5, Section 4.3.1, of the Dublin City Council City Development Plan 2022 – 2028 by exceeding the maximum standard of 3.0 metres. The proposed development would set an undesirable precedent for further similar development and would be contrary to the proper planning and sustainable development of the area.

The proposed development fails to provide for safe access and egress from the proposed parking space as required in Appendix 5, Section 4.3.1, of the Dublin City Council City Development Plan 2022 – 2028 due to its location at a busy section of Grand Canal Street Upper, and directly adjacent to a pedestrian crossing and traffic junction. The proposed development would, by itself and cumulatively, set an undesirable precedent for further similar development and would be contrary to the

proper planning and sustainable development of the area. It would endanger public safety by reason of a traffic hazard and obstruction of road users

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Tomás Bradley,
Senior Planning Inspector

27th July 2023