



An  
Bord  
Pleanála

## Inspector's Report ABP 315929-23

---

<b>Development</b>	New vehicular entrance with piers and associated works
<b>Location</b>	86 Collins Avenue East, Dublin 5
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2080/22
<b>Applicant(s)</b>	Daniel Vivancos Unica
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First v. refusal
<b>Appellant(s)</b>	Daniel Vivancos Unica
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29/04/2023
<b>Inspector</b>	R McLaughlin

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	4
4.0 Planning History .....	6
5.0 Policy and Context .....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations .....	8
5.3. EIA Screening.....	8
6.0 The Appeal.....	8
6.1. Grounds of Appeal .....	8
6.2. Planning Authority Response .....	9
6.3. Observations.....	9
6.4. Further Responses .....	10
7.0 Assessment.....	10
8.0 Recommendation .....	13
9.0 Reasons and Considerations.....	14

## 1.0 Site Location and Description

- 1.1. The subject site is located on the northern side of Collins Avenue East, c 350 m northwest of Killester village. This part of Collins Avenue East is characterised by terraced houses where the majority have small front gardens adapted for off-street parking. Designated on-street parking is not available along this section of the road and cars were observed parking partially on the footpath and the public road. The attached property to the east has off street parking to the front with a dished kerb while the attached property to the west does not.
- 1.2. A bus stop (stop No. 4389) is located on the footpath to the front of the subject site where two bus routes are provided. At the bus stop, Kassel kerbs are in place which allows for an alignment with buses and improved access from the bus to the footpath particularly for those with mobility issues. The public road is marked as a bus stopping area c 19 m long and extends in front of No's 84, 86 and 88 and part of No. 90 Collins Avenue East. The bus stop is located approximately in the centre of the designated bus stopping area.

## 2.0 Proposed Development

- 2.1. The proposed development will consist of a new vehicle entrance with piers and associated works. All finishes to match existing and all of the above to include associated site works and all services connected to existing.
- 2.2. The proposed access is 3.5 m wide and will be a shared vehicular and pedestrian access. In the planning application submission, the western side of the proposed driveway aligns closely to the location of the bus stop on the footpath (drawing No. 20221127) and the pedestrian access leads to the front door on the eastern side of the site. The proposed parking area is centrally within the current open space in the planning application drawings.
- 2.3. The planning appeal is accompanied by a drawing 'Parking Demonstration' (drawing No. 20230221) where the proposed parking area is revised and located to the east of the site adjacent to the property to the east (No. 84 Collins Avenue East) which has a dished footpath. The 'Parking Demonstration' drawing illustrates a vehicle located directly in front of the front door to the house and the pedestrian access is revised to

the west of the proposed parking space and aligned with the bus stop. The 'Parking Demonstration' drawing illustrates the vehicle exiting the site forwards (i.e. having reversed in) across the dished footpath of the adjacent property No. 84 Collins Avenue East and turning left (east). A second drawing with the same drawing No. provided the revised elevation with the vehicle relocated to the east.

- 2.4. The application is accompanied by correspondence between the Inspectors office Dublin Bus operations and the applicant where an e-mail state there is no objection to a driveway serving the subject site as long as it does not impinge on the current bus stop and Kessel kerbing.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The planning authority refused permission for one reason as follows.

1. *The proposed development, comprising a new vehicular entrance and proposed dished kerb would require the removal of an existing bus stop serving Collins Avenue and would also impact on the Kassel kerb currently in place, which provides access to buses for people with mobility impairment and stroke or disabilities. The relocation of the same bus stop and Kassel kerbing is not considered feasible. Therefore, safe access and egress cannot be achieved due to the conflict with the existing bus stop. The proposed development would, therefore, conflict with appendix five of the Dublin City Development Plan 022-2028 and would, be contrary to the proper planning and sustainable development of the area”.*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- 3.2.2. The planning report dated 3rd of February 2023 describes the site and the bus stop directly in front of the site. The report refers to the Transport Planning Division (TPD) report which is detailed below. Appendix 5 sections 4.3.1 and 4.3.3 are repeated. The planning history from 2016 is referenced. In the 2016 permission, the applicant was to agree details of any works required with Dublin bus and it is considered that it

is unclear if agreement had been reached at that time between the parties. The applicant does not indicate any alterations to the existing Kassel kerb within the drawing submitted. The reliance on the adjoining dishing is not considered appropriate. The planning report recommended that permission be refused in line with the TPD report.

3.2.3. The Planning report states that no submissions from consultees were received. The planning file indicates that the application was circulated to Dublin Bus on 16<sup>th</sup> December 2022.

#### 3.2.4. **Other Technical Reports**

3.2.5. Drainage division - No objections subject to conditions.

3.2.6. TPD - Recommended refusal. While no bus connects core route runs outside the site, the revised network indicates 2 buses serving this section of Collins Avenue with a combined peak hour frequency of 1 bus every 8.5 minutes. The bus stop in front of the property and has been in place since 2009 and possibly longer. The bus stop is a standalone pole with 7 Kassel kerbs. The submitted drawings indicate no change to the existing kerbs. Several sections of the City Development Plan (CDP) are repeated in particular chapter 8 and appendix 5.

3.2.7. An internal technical commentary within the TPD report states that Dublin City Council Bus and Coach section who consulted with Dublin Bus, recommend a refusal based on several reasons, including, in summary:

- Dublin City Council have invested a large amount of money into this bus stop and Kassel kerbing.
- The bus stop has been in place for many years in a position that best serves the shops and local businesses in the area.
- The bus stops are strategically positioned at regular intervals
- There is no other suitable location nearby to relocate the bus stop.
- The national transport authority requires a minimum 8.5 metres of a clear zone at bus stops to ensure safe boarding and alighting. Dublin bus can occur operational fines for not using the centre doors at stops.

3.2.8. The TPD report considers the principle of your entrance is acceptable, subject to detailed design. The proposed access of 3.5 m exceeds and contravenes the development plan standard of a maximum of 3 m. It is considered that the proposed access would impact on the bus stop as dishing is generally the width of the entrance with additional sloped kerbs. Based on the minimum entrance standard allowed, the proposed development would impact the bus stop and Kessel kerbing through the need to remove the kerbing. From the application submitted it is reasonable to expect that a vehicle would rely on the existing dishing at No. 84 to drive behind the bus stop. This is considered an inappropriate manoeuvre. The reliance of the adjoining dishing is not considered appropriate as it creates the need for enforcement and management. It is recommended that permission be refused.

## 4.0 Planning History

### 4.1. Subject site

P.A. Ref: 4423/16. Permission was granted on the subject site in March 2017 for a new vehicle entrance with piers and associated works with finishes to match existing and associated site works and services connected to existing. Condition No. 2 required the vehicle entrance to be 2.737 metres wide only. Condition No. 3 (a) required the applicant shall agree all details with Dublin bus regarding any works required to the existing castle curbing serving the existing bus stop adjacent to the site and shall be responsible for all costs associated with any works.

### 4.2. Other sites

No relevant planning history in the vicinity.

## 5.0 Policy and Context

### 5.1. Development Plan

5.1.1. The Dublin City Development Plan 2022-2028 (CDP) applies. The site is zoned Sustainable Residential Neighbourhoods Land-Use Zoning Objective Z1: 'To protect, provide and improve residential amenities' on zoning Map B. The relevant sections are summarised as follows:

- Chapter 8: Sustainable Movement and Transport- Policy objective SMT11 - Pedestrian Network: To protect, improve and expand on the pedestrian network, whilst ensuring accessibility for all.
- Chapter 8: Policy objective SMT02 -To improve the pedestrian network and prioritise measures including raised tables and kerb dishing at appropriate locations, bus stops and rail platforms in order to optimise safe accessibility for all users.
- Appendix 5, Section 4.0 - Car Parking Standards *“There is a predisposition to consider residential off-street car parking, subject to design and safety criteria, particularly along Core Bus Corridors (CBCs) and to facilitate traffic management proposals. However, proposals for off-street parking in the front gardens of single dwellings in predominantly residential areas will not be permitted where residents are largely reliant on on-street car parking and there is a strong demand for such parking.”*
- Appendix 5, Section 4.3 - Planning Permission is required for the alteration of a front garden in order to provide car parking by creating a new access, or by widening of an existing access.
- Appendix 5, Section 4.3.1 - Parking in front gardens, includes *“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”.*
- Appendix 5, Section 4.3.3 - Impact on public transport infrastructure. *“Where a vehicular entrance is located in proximity to a bus stop or shelter, the Council will consider the impact of any conflict between vehicles and pedestrians at this location. The removal or relocation of a bus stop or bus shelter to accommodate a vehicular entrance may not be possible having regard to the*

*impact on the overall bus route and will be considered on a case by case basis, in consultation where necessary, with Dublin Bus and the National Transport Authority (NTA). The impact of a proposed vehicular entrance or widening of an existing entrance on existing Kassel Kerbs, which provide improved access to buses for people with mobility impairment and/or disabilities, will also be taken into consideration and determined on a case by case basis.”*

## **5.2. Natural Heritage Designations**

5.2.1. None relevant.

## **5.3. EIA Screening**

5.3.1. Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, 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 may be summarised as follows:

- Dublin Bus verbally agreed in a meeting and by e-mail that they do not object to the proposed parking arrangement.
- The previous planning application was approved but expired in May 2022 with agreement in place to proceed.
- The house was purchased with the benefit of planning permission to carry out the works however due to COVID-19 the planning application lapsed, and the



applicants have made an application for the same proposal as previously approved.

- The applicants having bought their first house need to park a car in a safe location where they can safely load and unload the car. The standards in the CDP are not feasible to older neighbourhoods. There is no alternative on street parking provisions unlike new developments. Parking is a major issue in the area with a significant shortage of available spaces. Due to the lack of on street parking, people resort to parking on the footpath where they receive parking fines.
- The proposed development does not require a change to the bus stop. The proposal follows the previously approved plan and is a reasonable solution for parking needs. No alteration to the pavement is proposed. The appellant can safely enter and exit the property from the right hand side without interfering with the stop. The bus stop is not frequently used as most passengers prefer the next stop where Killester train station is located.
- Only three out of 31 bus stops on Collins Avenue interfere with front garden access. A balance between public transport convenience and the right of residents to access their own property safely and conveniently needs to be achieved. There are several precedents on the same development as requested, for example No. 544 Collins Avenue West. Also, No's 39 /41 Collins Avenue, No. 310 Collins Avenue and No. 490 Collins Avenue West have bus stop in front of properties.

## 6.2. Planning Authority Response

No response.

## 6.3. Observations

None.

## 6.4. Further Responses

None sought.

## 7.0 Assessment

7.1. The main issues arising in this case are:

- Principle of development
- Accessibility and safety
- Relevant Development Plan standards and polices
- Other matters
- AA Screening

### 7.1.1. Principle of development

The appeal site is located on a site zoned Z1: Sustainable Residential Neighbourhoods where the objective is “to protect, provide and improve residential amenities”. Extensions and alterations for residential purposes are acceptable in principle. Alterations are subject to the acceptance or otherwise of site specific / other policies within the CDP including traffic safety which are dealt with below.

### 7.1.2. Accessibility and safety

7.1.3. The proposed vehicular entrance would be located along Collins Avenue East which is heavily trafficked at peak times. Permission was refused by the Planning Authority as it was considered that the development would necessitate removal of an existing bus stop and would impact on the Kassel kerb which provides access to buses for people with mobility impairment and stroke or disabilities. The Planning authority consider that the relocation of the bus stop and Kassel kerbing is not feasible and therefore, safe access and egress cannot be achieved due to the conflict with the existing bus stop

7.1.4. Several concerns raised by the Dublin Bus and Coach section to the Transportation Planning Section have been outlined above. The appeal grounds contend that the bus stop is not a busy stop, that the stop does not have to move, and proper parking within the site has been demonstrated in the revised drawing. The appeal does not

specifically address the issue of the impact of the proposal on the kerbing or on potential impact on pedestrians waiting at the stop. The application to the Planning Authority illustrated the car more directly in front of Kassel kerbing whereas the revision with the appeal relocates the vehicle tightly against the eastern boundary in front of only the eastern end of the Kassel kerbing and at the front door of the house. It may be noted that the proposed 3.5 m wide opening serves both pedestrian and vehicle access and there is nothing to distinguish between them.

- 7.1.5. While the car is shown tightly against the eastern boundary in the revised drawing with the appeal, depending on traffic and manoeuvring, it is reasonable to assume that a vehicle would park more centrally within the proposed opening. Driving forward to the parking location on the revised drawing would result in the restricted opening of the driver's door and the parking space is shown at c 2.15m wide. I consider that the parking demonstration drawing submitted with the appeal illustrates how the car could be parked but does not show how a car would be parked on the site as there is nothing to prevent a vehicle parking anywhere within the proposed opening and to the west of the front door of the property.
- 7.1.6. Both the revision with the appeal and the application drawings shows Kessel kerbing in front of the vehicle. If the vehicle parked only as shown on the 'Parking Demonstration' drawing, then the impact is less. The revised drawing only shows the car turning east across the dished footpath of the neighbouring property. There is no illustration of the car turning west which would impact on the Kessel kerbing and there is nothing to prevent that manoeuvre. I consider that reversing into the site would not be feasible in certain traffic situations or from the other side of the carriageway. In most cases it can be assumed, a vehicle would reverse out onto the road across the footpath directly beside the bus stop, which would interfere with the safe operation of the bus stop.
- 7.1.7. The appellant includes an email to him, that Dublin Bus did not object to a driveway as long as it does not impact on the current bus stop and Kassel kerbing. The planning application was circulated to Dublin Bus who did not respond. The TDP report includes that Dublin City Council Bus and Coach section who consulted with Dublin Bus, recommend a refusal based on several reasons which I consider as reasonable. It is not clear from that report if Dublin Bus agreed with Dublin City

Council Bus and Coach section. There is no proposal by any party to move the bus stop and no alternative location offered.

7.1.8. The carriageway has a clear bus stop marking area where the bus stop is centrally located. The proposed new access is aligned on the east with the bus stop (at the pillar) and therefore a vehicle could cross the footpath in forward or in reverse beside the bus stop where passengers can be waiting or have arrived. In this regard, I consider that the bus stop would have to be moved for safety of pedestrians to facilitate the proposed driveway which is not feasible. As proposed in the revised drawing, the vehicle if turning west will compromise the Kessel Kerbing and if turning east is relying on the footpath dishing to another property and still impacting to a lesser degree on the Kessel kerbing. It is considered in terms of access and safety that the proposed development would interfere with the safe operation of the bus stop and should be refused.

**7.1.9. Relevant Development Plan standards and polices**

7.1.10. The appellant points to the difficulties that are encountered with parking in this area and the fact that permission for the development had been granted in the past, but expired and was not implemented owing to Covid delays. The appellant considers the current CDP standards are more applicable to new housing developments where off street parking is available. While it is accepted that the appellant finds parking difficult, there is not an automatic right to parking in front of a house in the CDP. In relation to permission having been permitted in the past, the 2016 application was assessed against the CDP and polices applicable at the time.

7.1.11. The application has been lodged and must be assessed under the current CDP. The current plan states in section 4.3.1, appendix 5, that the vehicular opening “shall be at most 3 metres”. The term “shall” is a mandatory requirement in the CDP and the proposed development breaches this standard. Furthermore, in section 4.3.3, the CDP specifically addresses where a vehicular entrance is located in proximity to a bus stop, the Council will consider the impact of any conflict between vehicles and pedestrians and the impact on existing Kassel kerbs, which provide improved access to buses for people with mobility impairment and/or disabilities. In this regard, the Planning Authority consider that there is a conflict in terms of safety and for the reasons above, I agree with that position.

#### 7.1.12. **Other matters**

7.1.13. The appellant raises the issue of precedent of existing bus stops in the vicinity of driveways in the area. In this regard, I consider that the examples provided do not give any grounds to permit development as proposed under the current CDP. It may be noted that there are also examples of the planning authority and Board refusing permission for driveways in the vicinity of bus stops, but I consider that the proposed development should be assessed on the site specific circumstances of the application and the current relevant planning policy.

#### 7.1.14. **AA Screening**

7.1.15. Having regard to the modest scale of the proposed development, its location within an appropriately zoned and serviced area and the foreseeable emissions therefrom, I am satisfied that 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.

## 8.0 **Recommendation**

I recommend that permission be refused.

## 9.0 Reasons and Considerations.

1. The proposed development, comprising a new vehicular entrance would require the removal of an existing bus stop serving Collins Avenue and would also impact on the Kassel kerb currently in place, which provides improved access to buses for people with mobility impairments and/or disabilities. The relocation of the same bus stop and Kassel kerbing is not considered feasible and therefore safe access and egress cannot be achieved due to the conflict with the existing bus stop. The proposed development would, therefore, conflict with Appendix 5 of the Dublin City Development Plan 2022-2028 and would, be contrary to the proper planning and sustainable development of the area.

---

Rosemarie McLaughlin

Planning Inspector

13<sup>th</sup> May 2023