



An
Bord
Pleanála

Inspector's Report ABP316140-23

Development	New vehicular entrance to front garden
Location	45 Annadale Drive, Drumcondra, Dublin 9 – D09V6W3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3057/23
Applicant(s)	Ms. Aisling Behan
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Ms. Aisling Behan
Observer(s)	None
Date of Site Inspection	25/05/2023
Inspector	Anthony Abbott King

1.0 Site Location and Description

- 1.1. No. 45 Annadale Drive is a mid-terrace two-storey house located opposite a green open space located mid-way along Annadale Drive to the south-west. Annadale Drive / Crescent can be accessed via Grace Park Terrace from Grace Park Road. Annadale Drive / Crescent is a residential area located to the east of Grace Park Road characterised by two-storey modest terrace houses set back from the street edge with front boundary walls defining the footpath edge. There is a grass verge between the footpath and the main carriageway; this grass strip is planted with deciduous trees.
- 1.2. The original boundary treatment comprises a pedestrian access to the front garden of the houses on Annadale Drive / Crescent. However, a large number of the houses in Annadale Drive / Crescent have been extended, altered in elevation and a significant number of front gardens have been reconfigured to facilitate off-street parking. There is no formal car parking space on-street outside No.45 Annadale Drive.

2.0 Proposed Development

- 2.1. New vehicular entrance to front garden and associated site works

3.0 Planning Authority Decision

3.1. Decision

Refusal:

Having regard to the location of a mature public street tree to the front of the subject site, it is considered that it would not be possible to construct the proposed entrance and dishing without impacting on the tree root zone of the existing street tree. As such, the proposed development, due to its impact on the street tree located in front of the property would be contrary to Section 4.3.2 in Appendix 5 of the Dublin City Development Plan 2022-2028 and would seriously injure the amenities of property in the vicinity. The development would set an undesirable

precedent 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 decision of the CEO of Dublin City Council reflected the recommendation of the planning case officer.

3.2.2. Other Technical Reports

The Transport Planning Division of Dublin City Council recommended a refusal of planning permission.

4.0 Planning History

A 10 year review of planning application on Annadale Drive reflects the following chronology and history of planning permission for vehicular off-street parking in the front gardens of properties in the vicinity of the subject site. It is noted that all of the applications for off-street parking were granted permission. However, a number of development proposals were amended by way of condition to restrict off-street parking in front gardens to one space per dwelling unit and to regulate the width of the opening of the vehicular access. The relevant planning history in terms of proximity to the subject site and / or issues concerning street trees is listed below:

- 3593/22 permission granted (final grant 30/06/2202) for two vehicular parking spaces in the front gardens of two adjoining properties at no.35 & no. 37 Annadale Drive (width of opening approximately 2.7 metres);
- WEB1377/21 permission granted (final grant 22/11/ 2021) for vehicular parking space in the front garden of no.103 Annadale Drive – existing tree removed conditional compensation payment to DCC (width 3 metres);
- 2315/21 permission granted *inter alia* (final grant 14/06/2021) for vehicular parking space in the front garden of no. 58 Annadale Drive (concern re: impact of dishing of footpath on the mature tree located in the grass verge aligned with the no. 58 / no. 60 property boundary – dealt with by way of condition reducing width of opening from 3.5 to 3.0 metres);
- WEB1664/18 permission granted (final grant 21/04/2019) for vehicular parking space in the front garden of no. 101 Annadale Drive (width 3.6 metres);

- WEB1352/18 permission granted (final grant 05/02/2019) for vehicular parking space in the front garden of no. 119 Annadale Drive (existing tree to be protected);
- WEB1231/17 permission granted for retention (final grant 02/08/2017) of vehicular parking space in the front garden of no. 20 Annadale Drive (3.4 metres);
- WEB1283/16 permission granted (final grant 17/09/2016) for vehicular parking space in the front garden of no. 22 Annadale Drive (3.5 metres).

5.0 Policy and Context

5.1. Development Plan

Dublin City Development Plan 2022-2028, Appendix 5, Section 4.3.2 (Impact on Street Trees) states: *In all cases, the proposed vehicular entrance shall not interfere with any street trees. Proposals to provide a new entrance or widen an existing vehicular entrance that would result in the removal of, or damage to, a street tree will not generally be permitted and where permitted in exceptional circumstances, must be mitigated. Where a street tree is located in close proximity to a vehicular entrance, protective measures shall be implemented during construction to safeguard against any damage caused and a financial security required to cover any damage caused.*

Dublin City Development Plan 2022-2028, Chapter 8 (Sustainable Mobility and Transport) provides for the following:

Policy SMT2 states: *Decarbonising Transport*

To support the decarbonising of motorised transport and facilitate the rollout of alternative low emission fuel infrastructure, prioritising electric vehicle (EV) infrastructure.

Policy 2MT29 states: *Expansion of the EV Charging Network*

To support the expansion of the EV charging network by increasing the provision of designated charging facilities for Electric Vehicles on public land and private developments in partnership with the ESB and other relevant stakeholders; and to support the Dublin Regional EV Parking Strategy.

5.2. Natural Heritage Designations

Not relevant

5.3. EIA Screening

The proposed development is for a vehicular parking space in a front garden in an urban area. The development is not in a class where EIA would apply.

6.0 The Appeal

6.1. Grounds of Appeal

- The motivation for making the application for off-street car parking is in order to achieve secure, private parking and access to an EV charging point within my front garden;
- There is broad precedent for off-street parking provision in front gardens in the Dublin City Council area. The appellant states that there are 137 properties within Annadale Drive and that 73% of these properties enjoy an off-street parking with vehicular access.
- The street tree the subject of the Planners Report is located 835 mm over from the dividing wall between no. 45 and no.47 Annadale Drive and is in front of no. 47 Annadale Drive not in front of the appellant's property;
- The requirement to achieve a 2.5 metres distance between the tree trunk and the footpath dishing can be achieved. Drawings, including an alternative option, have been submitted to illustrate that the required distance can be achieved;
- The appellant is willing to ensure the protection and preservation of the subject street tree during construction stage should her appeal succeed.

6.2. Applicant Response

N/A

6.3. Planning Authority Response

None recorded

6.4. Observations

None recorded

6.5. Further Responses

None recorded

7.0 Assessment

7.1. I identified the main planning issues as follows:

- The applicant site is zoned Z1: Residential (*to protect, provide and improve residential amenities*). The proposed development is a permissible use.
- Compliance with Appendix 5, Section 4 (Car Parking Standards), subsection 4.3.1 (Dimensions and surfacing) and subsection Section 4.3.2 (Impact on Street Trees) of the Dublin City Development Plan 2022-2028.

7.2. Appendix 5, Section 4 (car parking standards) subsection 4.3.1 (Dimensions and surfacing) states: *The basic dimensions to accommodate the footprint of a car within a front garden are 3 metres by 5 metres.* The proposed surface parking area within the front garden would be an approximate 7 metres by 4.5 metres with planting located along the side boundaries with a selected wash beach pebble on permeable membrane surface treatment. The proposed development can satisfy the required standard.

7.3. The width of the vehicular access to the street is proposed at 3 meters aligned with policy guidance which requires the width of vehicular openings to be restricted to between 2.5 and at most 3 metres. The Dublin City Council warranted refusal based on the conclusion that it would not be possible to construct the proposed entrance (3 metres) and dishing (900 mm) without impacting on the tree root zone of an existing mature street tree located within the grass verge, between the footpath and the carriageway on Annadale Drive. The planning officer notes for clarity that the dishing of the footpath usually extends to 900mm beyond the edge of the vehicular entrance on each side.

Appendix 5, Section 4.3.2 (Impact on Street Trees) provides guidance in the matter of the provision of vehicular access stating that: *In all cases, the proposed vehicular entrance shall not interfere with any street trees. Proposals to provide a new entrance or widen an existing vehicular entrance that would result in the removal of, or damage to, a street tree will not generally be permitted and where permitted in exceptional circumstances, must be mitigated.* The subject reason for refusal by Dublin City Council is motivated by the potential damage to the street tree and root zone located in front of No. 47 Annadale Drive on the boundary with no. 45 Annadale Drive (positioned in the grass verge in front of no. 47 Annadale Drive less than a metre from the boundary with no. 45 Annadale Drive). The rationale provided in the Planners report is that the width of the vehicular opening combined with the dishing would not allow for the required 2.5 metres radius from the (medium type) street tree to the dished footpath in order to protect the root zone.

- 7.4. It is noted that the reason for refusal states that the subject tree is located in front of No. 45 Annadale Drive. The appellant has correctly clarified in her appeal statement that the tree is located to the front of no. 47 Annadale Drive at a distance of approximately 800mm from the boundary. Furthermore, a public lighting pole is located within the grass verge outside no. 45 Annadale Drive. It is noted that in order to facilitate vehicular access the relocation of the public street light would be required.
- 7.5. The appellant has submitted an alternative design option that would reconfigure the proposed opening in the boundary of No. 45 Annadale Drive in order to satisfy the requirement of achieving a 2.5 metre radius from the surface of the trunk of the street tree (medium type) to the proposed footpath dishing. The submitted drawing entitled 'Proposed Vehicular Entrance – Option to relocate 3m Entrance' (Drawing 1B) dated March 23 relocates the new vehicular entrance onto the boundary with no.43 Annadale Drive with a new pier to be constructed on the boundary line. It is considered that the revised drawings do not constitute a material change from the proposed development as advertised. Therefore the Board may consider the revised drawings submitted on the 24th March, 2023 in decision making.

Furthermore, it is noted that the appellant is willing to ensure the protection and preservation of the subject street tree in front of no. 47 Annadale Drive during construction stage should her appeal succeed.

7.6. The appellant states that there are 137 properties within Annadale Drive and that 73% of these properties enjoy an off-street parking with vehicular access. I noted on my site visit that residents in a large number of houses in the vicinity enjoy off-street parking in their front garden. A 10-year review of the planning history on Annadale Drive evidences the following:

- Planning application for vehicular off-street parking on Annadale Drive evidences that all applications for parking in front gardens have been granted permission to date (a total of 11 planning permissions providing for 12 vehicular openings).
- A number of applications were amended by way of condition to restrict off-street parking in front gardens to one space per dwelling unit and to regulate the width of the opening of the vehicular access in the majority of applications to between 2.5 and 3.6 metres.
- In the matter of street trees located in the grass verge between the footpath and the carriage way a flexible policy Implementation dynamic is evidenced providing for the protection of existing trees during construction and in one instance the removal of a street tree in order to facilitate access but subject to compensation.

7.7. The appellant states that the motivation for making the application for off-street car parking is in order to achieve secure, private parking and access to an EV charging point within her front garden. It is noted that the charging point would be located on the front elevation. The Dublin City Development Plan 2022-2028 provides *inter alia* a policy framework for the de-carbonisation of transport including the facilitation of the electrification of the transport fleet. In this regard Policy SMT2 (decarbonising transport) and Policy SMT29 (Sustainable Mobility and Transport) are noted and are relevant to the assessment of the proposed development. It is also noted that the First National Electric Vehicle Charging Infrastructure Strategy 2022-2025, published by the Department of Transport on the 19th January, 2023, gives guidance in relation to the location and siting of EV charging infrastructure, which should take into account issues such as seclusion, lighting, and safety, together with the potential creation of new hazards to other road users such as pedestrians or cyclists.

The provision of an off-street location to facilitate EV charging in the front garden of no. 45 Annadale Drive would align with this guidance. It is also noted that the Strategy states that home charging is the most cost-effective and convenient way of charging electric vehicles in Ireland. It currently accounts for approximately 80% of EV charging sessions.

- 7.8. In conclusion, the appellant has submitted an alternative development option (Drawing 1B) that would reconfigure the proposed vehicular access in order to achieve the requirement for a 2.5 metres radius from the surface of the trunk of the street tree to the footpath dishing. Appendix 5, Section 4.3.2 (Impact on Street Trees) states: *where a street tree is located in close proximity to a vehicular entrance, protective measures shall be implemented during construction to safeguard against any damage caused and a financial security required to cover any damage caused.*

The appellant has confirmed that she is willing to protect and preserve the street tree during the construction stage should her appeal succeed. It is noted the relocation of the public light pole is not clearly identified on the submitted drawing entitled 'Proposed Vehicular Entrance – option to relocate 3m entrance' (Drawing 1B) dated March 23. It is considered that the protection and preservation of the street tree and the relocation of the light pole can be dealt with by way of condition.

I conclude on balance having regard to the reason for refusal, the grounds of appeal and the policy framework provided by the Dublin City Development Plan 2022-2028 that permission should be granted for the proposed development subject to condition.

- 7.9. Appropriate Assessment Screening:

The development to be retained comprises a vehicular parking space in a front garden within an established urban area.

Having regard to the nature and scale of the proposed development it is possible to screen out the requirement for the submission of an NIS.

8.0 Recommendation

8.1. I recommend a grant of permission subject to condition having regard to the reasons and considerations set out below:

9.0 Reasons and Considerations

Having regard to the reason for refusal, the grounds of appeal and the policy framework provided by the Dublin City Development Plan 2022-2028.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by the further plans and particulars received by An Bord Pleanála on the 24th March, 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: in the interests of clarity.</p>
2.	<p>Revised plans indicating the preservation and protection of the mature street tree, including the relocation cost and reposition of the public lighting pole, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: To preserve and protect the mature street tree located in front of No. 47 Annadale Drive within the grass verge between the footpath and the carriageway in the interest of conservation and visual amenity.</p>
3.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by</p>

or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Anthony Abbott King
Planning Inspector

1st June, 2023