



An
Bord
Pleanála

Inspector's Report

ABP-316308-23

Development	Construction of vehicular access and all associated site works
Location	90 Tyrconnell Park, Inchicore, Dublin 8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3149/23
Applicant(s)	Coleesa Humphreys
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Coleesa Humphreys
Observer(s)	None
Date of Site Inspection	5 th June 2023
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 163sqm comprises a two storey mid terrace dwelling located on the southern side of Tyrconnell Park. The house is set back from the road with a plinth and fence to the front. The surrounding area comprises similar modest sized dwellings, within a mature residential area. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Planning permission is sought for the alteration to the front boundary fence to create a new vehicular access to allow for off-street parking bay, and dishing of the public footpath.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. DCC issued a notification of decision to refuse planning permission for the following reason:

The proposed development due to excessive vehicular entrance width and substandard parking area depth would have an unacceptable impact on the public footpath, would endanger public safety by reason of a traffic hazard and obstruction of pedestrians and would be contrary to Section 4.3.1, Appendix 5 of the Dublin City Development Plan 2022-2028, which aims to ensure that vehicular entrances are designed to avoid creation of a traffic hazard and adequate car parking space is provided to accommodate a car safely without overhanging the public footpath. The proposed development would set an undesirable precedent for similar developments, and would be contrary to the proper planning and sustainable development of the area

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- The **Case Planner** recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by DCC reflects this recommendation.

3.2.2. Other Technical Reports

Drainage Division – No objection subject to conditions

Transportation Planning – Recommended refusal. Notification of decision to refuse reflects this recommendation.

3.3. Prescribed Bodies

3.3.1. None

3.4. Third Party Observations

3.4.1. None

4.0 Planning History

4.1.1. There is no evidence of any previous appeal at this location. The following history has been provided with the appeal file.

- **WEB1357/21** – Planning permission granted at No 91 Tyrconnell Park in 2021 for alterations to the front boundary fence to create a new vehicular access to allow for off street parking bay and dishing of the public footpath subject to conditions. No amendments required as part of the conditions attached.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the Dublin City Development Plan 2022 – 2028. The subject site is zoned Z1 with the objective “*to protect, provide and improve residential amenities*”. Car Parking Standards are set out in Section 4, Appendix 5.

5.2. **Natural Heritage Designations**

5.2.1. The appeal site is not located in or immediately adjacent to a European 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. 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 first party appeal has been prepared and submitted by the applicant's agent on the 19th April 2023 and may be summarised as follows:

- The width of the proposed vehicular access has been reduced from 3.918m in the planning application to 3.0m in the appeal.. The proposed vehicular access is left open with no outward or inward opening gates. This accords with section 4.3.1 Appendix 5 of Dublin City Council Development Plan 2022-2028. See Drawing number 6 & 7 enclosed.
- The estate was built with pedestrian access only to front of the houses. It was designed for a different time, where there was little or no private car usage. Numerous houses approximately 60% within the estate have opened new vehicular access to front.
- There is extreme difficulty with roadside parking within this estate. Since the start of 2023, on at least 6 occasions the refuse collection company was unable to access the estate due to double parking within the estate.
- The agent and applicant carried out a random audit of cars / vehicles parked on the roadside within the estate over a 4 day period, the results are as set out below

- April 4th - 6.30am refuse collection day 33 vehicles including 2 large vans and 3 smaller vans (with double parking accessible roadway width 3.04m at its narrowest)
 - April 5th - 7.30pm 29 vehicles including 6 larger vans and 3 smaller ones (with double parking accessible roadway width 3.2m at its narrowest)
 - April 10th - 7am 30 vehicles including 2 large vans and 2 smaller vans (with double parking accessible roadway with 3.8m at its narrowest)
 - April 11th - 5.30pm 31 vehicles including 2 larger vans and 2 smaller vans (with double parking accessible roadway width 3.1m at its narrowest)
- The entrance width has been reduced to 3.0m (see drawing number 6 & 7 enclosed). The depth is slightly less than the 5.0m required in Section 4.3.1 Appendix 5, however it comfortably fits the applicants car (Fig 1) measuring 3.6m *1.6m wide. Even if the applicant was to move up to a bigger car (which she never intends doing) it would be maximum 4.0m in depth.
 - By rigidly sticking to 4.3.1 appendix 5 of the Dublin City Council Development plan, Dublin city council are leaving the applicant subject to years of continual anxiety & hardship. The estate infrastructure including the road & footpath widths are now set and cannot be changed. What has changed is private car usage since the estate was first built. The applicant needs her car desperately on medical grounds and cannot be without it. If she didn't need her car, she would certainly get rid of it immediately. The greater good is served here, by allowing her, an off street-car parking pod, notwithstanding the fact she does not rigidly comply with the Dublin city council development plan

6.2. Planning Authority Response

6.2.1. None

6.3. Observations

6.3.1. None

6.4. Further Responses

6.4.1. None

7.0 Assessment

7.1. This assessment is based on the plans and particulars submitted with the application together with further plans and particulars submitted with the first party appeal on the 19th April 2023.

7.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Public Safety
- Appropriate Assessment

7.3. Principle

7.3.1. The proposed development consists of the formation of a new vehicular access to public road to front of dwelling and forming an off-street car parking bay and associated alteration of front hedge boundary.

7.3.2. Having regard to the zoning objective for the site I am satisfied that the principle of the proposal for off street car parking is acceptable subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

7.4. Public Safety

7.4.1. As documented above DCC refused planning permission due to the excessive vehicular entrance width and substandard parking area depth that would have an unacceptable impact on the public footpath, would endanger public safety by reason of a traffic hazard and obstruction of pedestrians and would be contrary to Section 4.3.1, Appendix 5 of the Dublin City Development Plan 2022-2028. This

recommendation was informed by the report of the DCC Transportation Planning Section.

- 7.4.2. I refer to the Car Parking Standards set out in Section 4, Appendix 5 of the Development Plan where it states that vehicle 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. In addition, the vehicular opening shall be at least 2.5metres or at most 3 metres in width and shall not have outward opening gates.
- 7.4.3. The width of the proposed vehicular entrance submitted with the planning application was 3.92m, which was unacceptable with respect to development plan policy. Further there is an electricity pole located adjacent to the proposed entrance, at the boundary with no. 89 whereby the dishing associated with the proposal would impact on the existing pole. As part of the appeal the applicant submitted a revised proposal reducing the width of the entrance to 3m. While this accords with the requirements of the Development Plan it remains that the vehicular entrance would have an impact on the existing pole. However, I am satisfied that this matter can be dealt with by way of a suitably worded condition relocating the amended 3m entrance further west towards House No 91.
- 7.4.4. With regard to the off street dimensions of the proposed off street car parking I refer to Section 4.3.1 of the Development Plan where it states that the basic dimensions to accommodate the footprint of a car within a front garden are 3m by 5m, and further states that 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.
- 7.4.5. As stated by the DCC Transportation Planning Section the maximum depth of the front garden is 4.42m and the depth of the parking area is c. 4.3 m, which is less than the basic dimensions set out in the Development Plan and insufficient to accommodate a car without potentially overhanging the pavement. While there is extensive off street car parking in the immediate area (site photos refer) I note from the site layout plans

that owing to the curve in the street at this location the front garden area of the appeal site is more restricted than neighbouring properties. I refer to the site photo of No 95 Tyrconnell Park to the west of the appeal site. The Board will note that the area to the front of the No 95 is severely restricted and barely accommodates off street parking for a modest sized car. Given that the depth of the appeal site is further restricted in comparison (site location maps refer) I am concerned that off street car parking cannot be safely accommodated at the appeal site.

- 7.4.6. While I note the applicants' particular personal circumstances together with the dimensions of the applicants car and the documented shortcomings with regard to facilitating modern vehicular requirements within this estate it remains that the parking area depth is contrary to Appendix 5, Section 4.3.1 of the Dublin City Development Plan 2022-2028 due to the unacceptable impact on the public footpath. Refusal is therefore recommended.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed 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.

8.0 **Recommendation**

- 8.1. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the following reason.

9.0 **Reasons and Considerations**

1. The proposed development due to the substandard parking area depth would have an unacceptable impact on the public footpath, would endanger public safety by reason of a traffic hazard and obstruction of pedestrians and would be contrary to Section 4.3.1, Appendix 5 of the Dublin City Development Plan

2022-2028, which aims to ensure that vehicular entrances are designed to avoid creation of a traffic hazard and adequate car parking space is provided to accommodate a car safely without overhanging the public footpath. The proposed development would set an undesirable precedent for similar developments, and would be contrary to the proper planning and sustainable development of the area

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.

Mary Crowley

Senior Planning Inspector

6th June 2023