



An
Bord
Pleanála

Inspector's Report

ABP-317726-23

Development	Retention of off-street parking and vehicular access and permission for new gates to roadside boundary.
Location	16 Newgrove Avenue, Sandymount, Dublin 4, D04 KW32
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3787/23
Applicant(s)	Paula McLoughlin
Type of Application	Permission and retention permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Paula McLoughlin
Observer(s)	Fiona O'Sullivan
Date of Site Inspection	22 nd May 2024.
Inspector	Bernadette Quinn

1.0 Site Location and Description

- 1.1. The site is located on the northern side of Newgrove Avenue and approximately 90 metres east of Sandymount Green. The site has a stated area of 204 sq.m. and contains a mid-terrace two storey dwelling with a paved surface to the front and a concrete pedestrian ramp from the front boundary to the front door. A section of railing is in place on the eastern side of the front boundary with the remainder of the front boundary railings having been removed.
- 1.2. Newgrove Avenue has pay and display/permit parking on the road in front of the property and double yellow lines on the opposite side of the road. There is a footpath to the front of the site which has not been disused.

2.0 Proposed Development

- 2.1. Retention permission is sought for off street parking and vehicular access and permission is sought for erection of new gates to roadside boundary which are to be formed from cast iron railings which formed part of the original roadside railings.

3.0 Planning Authority Decision

3.1. Decision

On 12th July 2023 Dublin City Council planning permission for the following two reasons:

1. The vehicular entrance would result in the removal of on-street parking to accommodate private vehicular entrance, which would be contrary to the policy of the planning authority, as set out in Policy SMT25 and section 8.5.7 of the Dublin City Development Plan 2022- 2028, which aims to manage on-street parking to serve the needs of the city alongside the needs of residents, visitors, businesses, kerbside activity, and accessible parking requirements. The reduced supply of on-street parking would detract from the convenience of road users and the residential amenity of surrounding properties, would be contrary to the stated policy and would set an undesirable precedent for other similar

developments in the area. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The vehicular entrance and associated dishing at Newgrove Avenue would negatively impact on the adjacent mature street tree and its street root zone and would therefore be contrary to Section 15.6.9, Appendix 5, Section 4.3.2 of the Dublin City Development Plan 2022-2028 and the Dublin Tree Strategy 2021 and would seriously injure the amenities of property in the vicinity. The development would set 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 report reflects the report of the Transportation Division and considers the development to be contrary to Development Plan standards due to the impact on on-street parking and a street tree and should be refused permission.

3.2.2. Other Technical Reports

Transportation Planning:

The report of can be summarised as follows:

- The proposed entrance width of 2.9m accords with the development plan requirement that the vehicular opening shall be at least 2.5 metres or at most 3 metres in width and shall not have outward opening gates.
- The removal of pay and display parking to facilitate the retention of the vehicular entrance is not supported and is contrary to the policies and objectives of the Dublin City Development Plan including Policy SMT25 and Appendix 5, Section 4.1.
- The proposal would result in the loss of two on street parking spaces from the existing continuous parking bay.
- The dishing to facilitate vehicular access would negatively impact on the adjacent mature street tree and its street root zone and as such would be

contrary to the Development Plan and Dublin City Tree Strategy 2021. The submitted drawing does not appear to detail the positioning of the street tree correctly.

- The development is considered contrary to the Development Plan standards due to the impact on on-street parking and a street tree.

Drainage Division: No objection subject to condition.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

One observation received objecting to the development. Issues raised are similar to those raised in the observation to the appeal.

4.0 Planning History

4.1.1. Appeal Site:

1453/07: Permission granted on 14/06/2007 for widening of existing pedestrian entrance to front to create a vehicular entrance. This permission was not implemented and has expired.

Web1385/19 - Permission granted on 19/02/2020 for the construction of a new vehicular entrance to the front of an existing dwelling, modification of existing footpath and site landscape works within the boundary of the property, construction of a porch extension to the front, a new disabled ramp and handrails, conversion of an attic floor to a bedroom to include a new dormer style window to the front of the existing dwelling. This permission appears to have not been implemented in full.

Condition no. 5 stated:

The following Transportation Planning requirements shall be complied with:

- (i) The proposed vehicular access onto Newgrove Avenue shall be omitted from the development as the removal of an on-street car parking space to accommodate a private vehicular access is contrary to Policy MT14 and the

Development Standards of the Dublin City Development Plan 2016-2022 and would reduce the supply of on-street car parking available to residents. In addition it would set an undesirable precedent for similar sites throughout the city. Reason: In the interest of the proper planning and sustainable development of the area.

4.1.2. Site to East:

2302/14: Permission granted on 05/06/2014 to construct 2-storey side extension and to widen existing front vehicular entrance at 16A Newgrove Avenue.

4.1.3. Site to West:

1571/07: Permission granted on 14/06/2007 for widening the existing gateway in the front boundary railings, replacing the existing gate with new gates to match the original gate and associated ramping of the pavement to allow vehicular access at 14 Newgrove Avenue.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Dublin City Development Plan 2022-2028 is the relevant plan for the area within which the site is zoned objective Z1 'Sustainable Residential Neighbourhoods'.

5.1.2. The site is located within the Sandymount and Environs Architectural Conservation Area.

5.1.3. Chapter 8: Sustainable Mobility and Transport provides for the following:

- Section 8.5.7 of the Plan provides guidance on car parking and recognises the need to control and manage on-street parking to safeguard and enhance city living for people of all ages and abilities and for families.
- Policy SMT25 states it is the Policy of Dublin City Council: 'to manage on-street car parking to serve the needs of the city alongside the needs of residents, visitors, businesses, kerbside activity and accessible parking requirements, and to facilitate the reorganisation and loss of spaces to serve sustainable development targets such as in relation to, sustainable transport

provision, greening initiatives, sustainable urban drainage, access to new developments, or public realm improvements’.

5.1.4. Chapter 15 Development Standards in Section 15.6.9 states ‘Trees and hedgerows add a sense of character, maturity and provide valuable screening, shelter and privacy and will often have a useful life expectancy beyond the life of new buildings. Dublin City Council will seek to protect existing trees and hedgerows when granting planning permission for developments...’.

5.1.5. Appendix 5 Transport and Mobility: Technical Requirements include the following:

- Section 4.1 - There will be a presumption against the removal of on-street parking spaces to facilitate the provision of vehicular entrances to single dwellings in predominantly residential areas where residents are largely reliant on on-street car-parking spaces or where there is a demand for public parking serving other uses in the area.
- Section 4.3: 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: 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 2.5 metres or at most 3 metres in width and shall not have outward opening gates.
- Section 4.3.2: 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.
- Figure 1 in Appendix 5 outlines necessary buffer clearance to protect street tree and the root zone. Minimum clearance from the surface of the tree trunk

to the proposed edge of the dishing is 3.5 m for a large tree and 2.5 m for a medium tree.

5.2. Natural Heritage Designations

- 5.2.1. South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay proposed NHA are located 165 metres to the east of the appeal site.

5.3. EIA Screening

- 5.3.1. See Appendix 1 - Form 1 EIA Pre-Screening attached to this report. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, to the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended, to the established suburban nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. 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

The decision of Dublin City Council was the subject of a first party appeal which is summarised below:

Background

- The property was purchased in 2021 & the railings to the front had been dismantled by the previous owner to allow access to construction workers to renovate the property.
- Since purchasing the property, works to improve the character and appearance of the area and the quality of the streetscape have been carried

out, including tiling the disabled ramp, replacing the grassed area with liscannor stone and installation of a flowerbed.

- The original gated railings will be erected to their original design and incorporating the proposed vehicular entrance in keeping with the development standards in chapter 15 of the development plan to ensure they make a positive contribution to the character of the area.
- The footpath and kerb would be dished in accordance with DCC requirements including minimum clearance required from the surface of the tree trunk to the proposed edge of the dishing as outlined in appendix 5 section 4.3.2.
- On completion of the works it is proposed to purchase an electric car and install an EV charger in the driveway which is not possible in the absence of permission.

Compliance with Development Plan Policy

- The proposal is not contrary to policy SMT25 as it would not result in an overall loss of space as the space currently used by No 16 would be located off the public realm thereby increasing available on-street parking.
- The removal of an on-street space would improve traffic flow, including for double decker buses that use this road.
- Appendix 5, Section 4.0 of the Development Plan is clear in relation to the presumption against removal of on-street parking where demand for residents is reliant on on-street parking. Any suggestion by DCC that this is the case on Newgrove Ave is inconsistent with the categorisation of the same street as a 'low demand' parking zone. Newgrove Ave's designation by DCC as a 'low demand' parking area is consistent with actual demand as there are typically always spaces available.
- The loss of parking would encourage more sustainable travel patterns and a move towards increased public transport use and transitioning to a low carbon society and would comply with Development Plan policies in this regard.
- Permission for the development would support a move towards increased use of electric vehicles and support national policy and Development Plan policy in this regard.

- The development would comply with DCC policy on supporting social inclusion, accessibility and the needs of the elderly and those with mobility requirements which is relevant to the needs of a family member of the applicant.

Precedent

- There is precedent for similar development in the area, including reference 5275/22 (granted in March 2023) which has reduced available public parking in the area. It is unclear why the same principle was not applied to the appeal site and appears to be an inconsistent application of Development Plan policy.
- Multiple entrances have been permitted on Newgrove Ave including 4794/05 (granted December 2005) and 1453/07 (granted June 2007) that do not impact the convenience of road users or the residential amenity of surrounding properties.
- The adjacent properties have vehicular access to their gated driveways and vehicular access via a lane which is regularly used without any impact on the convenience of road users and the residential amenity of surrounding properties.

Impact on street tree

- There is no evidence that the development would negatively impact on the street tree and its root zone and the development would be completed in compliance with DCC requirements including appendix 5 section 4.3.2.
- Planning permission for the proposed development was previously granted under reference 1453/07 which has expired. No issues were raised in relation to the street tree in that application or in the more recent application reference WEB1385/19.
- There are trees adjacent to adjoining vehicular entrances which are healthy with cars passing adjacent to the trunks on a daily basis. The parking space on the street is as close to the tree, if not closer, than the route from the road to the off-street parking space.

6.2. Planning Authority Response

None received.

6.3. Observations

One observation received from Fiona O'Sullivan of Newgrove Avenue. The issues raised can be summarised as follows:

- Existing parking spaces are insufficient for all residents, removing a single space would significantly exacerbate this issue.
- Reduction of car parking on Sandymount Green has already negatively affected the neighbourhood and seasonal pedestrianisation of Sandymount Green further limits available parking.
- The development would impose additional costs on residents, including the need to pay for parking on Sandymount Green, this financial burden is unjustified and inequitable.
- The development would devalue homes for residents who rely on street parking and would disproportionately affect elderly and mobility impaired individuals.
- The development would result in traffic safety issues due to backing cars on to the road compromising safety for pedestrians and motorists.
- The development would detract from the Sandymount Conservation Area and from the area's historic streetscape and would possibly set a precedent for further inappropriate development in the vicinity.
- The proposal defies objective MT14 of the development plan which aims to minimise parking loss.

6.4. Further Responses

None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Traffic safety
- Impact on Street Tree
- Precedent

7.2. Principle of Development

- 7.2.1. The site layout plan indicates a ramp to be formed on the existing footpath and the existing on street car parking space to be removed. The proposed gates to the roadside boundary are to be formed from the cast iron railings which formed the original roadside railings with a proposed height of 1.057m. The front boundary has a stated width of 6.92m and a depth of 9.25m. The proposed gates and vehicular entrance measure c.2.9m wide and a pedestrian entrance is also proposed adjacent to the western site boundary. The proposed vehicular entrance and parking space comply with Development Plan requirements set out in Section 4.3.1 which requires a vehicular opening shall be at least 2.5 metres or at most 3 metres and an in-curtilage car parking space minimum dimensions of 3 metres by 5 metres.
- 7.2.2. An observer to the appeal notes that there is insufficient on-street parking to serve existing demand. I note that whilst the properties either side of the appeal site have in curtilage parking, the majority of houses to the east of the appeal site and on the opposite side of the road are reliant on on-street parking. I also note that, having regard to the proximity of the site to Sandymount Village there would appear to be strong demand for on-street parking to serve businesses and other uses such as the church and Sandymount Green which are located within 90 metres of the appeal site.
- 7.2.3. Policy SMT25, Section 8.5.7 and Appendix 5, Section 4.1 and 4.3 are clear in relation to the need to manage the demand for on-street parking to ensure

availability for residents and other users where there is demand and that there will be a presumption against the removal of on-street parking spaces in such areas to facilitate the provision of vehicular entrances to single dwellings. Policy SMT25 allows for the reorganisation and loss of spaces to serve sustainable development targets such as in relation to sustainable transport provision, greening initiatives, sustainable urban drainage, access to new developments, or public realm improvements. The proposed development does not come within one of these development types.

- 7.2.4. The grounds of appeal argue that the proposal is not contrary to Policy SMT25 as the applicant's car would be removed from the street and located off the public realm thereby increasing available on-street parking. While the applicant contends that the proposed development will provide parking for occupants and visitors thereby freeing up spaces on the street, the proposal will result in the loss of one on street space which is available to the public and other residents.
- 7.2.5. I consider the removal of one on-street car parking space in this area which serves an important local function for residents, businesses and community uses which are largely reliant on on-street parking, would be inconsistent with Policy SMT25 and Section 4.1 and 4.3 of Appendix 5 of the Development Plan.
- 7.2.6. I do not consider the designation of the area as a low demand area for the purposes of parking tariffs to be relevant to this assessment, noting the broad application of the parking tariff zones and the observed high demand for parking in the vicinity of the appeal site on the day of my site inspection, as well as the absence of any policy considerations relating to these zones in the Development Plan. I also do not agree with the first party that reducing available on street parking by providing for in curtilage parking on the appeal site will support a move towards more sustainable modes of travel as such an approach has the potential to set a precedent for increased levels of private parking thereby potentially facilitating increased private car use.
- 7.2.7. Notwithstanding the applicant's desire to install EV charging and the supporting policies in the Development Plan for the provision and expansion of the EV charging network, I do not consider this sufficient grounds to support the loss of one publicly

available car parking space and I note that alternative publicly available EV charging options are available.

- 7.2.8. In relation to the first party's case that the in curtilage parking space is required to facilitate the needs of a family member with reduced mobility, whilst the provision of such a space would improve accessibility for visitors to the appeal site, it would reduce accessibility for other users of on-street parking in the area and as noted by an observer would affect elderly and mobility impaired users of these spaces. I do not consider this reasonable grounds to permit a development which in my opinion is contrary to the criteria set out in Appendix 5 and Policy SMT25.
- 7.2.9. In relation to concerns raised in relation to potential impacts on Sandymount Architectural Conservation Area, Appendix 5 in Section 4.3.7 of the Development Plan outlines guidance relating to in curtilage parking in Architectural Conservation Areas. I note that the dwelling on the appeal site is not of nineteenth or early twentieth century construction but is of more recent construction and that the development would not result in alterations to elements that contribute to the character and special interest of Sandymount Village as identified in the Sandymount ACA Character Appraisal and Policy Framework Report. I also note that this section of Newgrove Ave is not referenced in the ACA Statement and I note the proposal to re-use the previously existing railings. The planning authority did not raise any concerns in this regard and I do not consider that the proposed development would have a negative impact on the special interest and character of the ACA.
- 7.2.10. I note the observers concerns regarding the impact of the proposed development upon property values. I am not aware of any evidence to support the assertion that the proposed development would negatively impact property values in the area, and nothing has been submitted to demonstrate that this would be the case.
- 7.2.11. In relation to concerns raised by both the planning authority and the observer that the development would have a negative impact on the residential amenity of surrounding properties, noting the accessibility of the area and the availability of other modes of transport, I do not agree that the development would negatively impact on residential amenities to such an extent as to warrant a refusal of permission on these grounds.

7.3. Traffic Safety

- 7.3.1. With regard to the existing traffic environment on Newgrove Ave, I do not agree that the removal of one space will improve traffic flow, noting the presence of existing car parking spaces either side of the space proposed to be removed with no increase in carriageway width as a result, and the concerns expressed in this regard will still remain with the removal of a single parking space. I am not aware of any traffic flow issues at this location and the issue was not raised in the Planning Authority's Transportation Section report. I also note that the presence of on-street parking can act as a traffic calming measure and can contribute towards maintaining residential amenity and safety through slower moving traffic along the street. I do not share the concerns in relation to traffic safety that would arise if the development was permitted as raised by an observer, noting the available sightlines from the site entrance in both directions and the location of the site within an urban environment where traffic speeds are slow.

7.4. Impact on Street Tree

- 7.4.1. Appendix 5 Figure 1 sets out that the minimum clearance required is 2.5 metres from the surface of a medium tree trunk to the proposed edge of the dishing. Having regard to the position of the proposed vehicular entrance located centrally within the front boundary, the minimum clearance of 2.5 metres required for a medium size tree from the edge of the dishing to the tree trunk would not be achieved. I note that there is also a tree to the west of the site entrance and it has not been established that the works would not impact on this tree. Notwithstanding the argument made by the appellant that the existing on-street parking space is closer to the tree than the proposed in curtilage space, the dishing required to facilitate the development has the potential to negatively impact on the street tree and root zone noting the minimum clearance cannot be achieved.

7.5. Precedent

- 7.5.1. With regard to precedent, the appeal states that there are numerous precedents in the vicinity where off-street parking arrangements exist, including on Newgrove Ave and on Wilfield Road. Having inspected the site I noted that dwellings on either side of the appeal site have incorporated vehicular entrances and off- street parking. However, I note from the planning history of the area that these have not been

granted planning permission in recent times. The appeal also refers to a site on Wilfield Road where permission was granted under reference 5275/22. I note that Wilfield Road does not have pay and display parking and this application did not involve the removal of a designated on-street car parking space or a street tree. Whilst there may be residential demand for parking, the site is located c.800m from Sandymount Village and as such I do not consider the same level of demand from other users exists. I am not aware of any relevant precedent in the area where permission was granted for off street parking in similar circumstances during the period of the current Development Plan.

- 7.5.2. In relation to precedent for a vehicular entrance on the appeal site, I note that permission 1453/07 was granted under a previous Development Plan and has now expired. Planning permission WEB1385/19 included a condition omitting the proposed vehicular entrance. Whilst the street tree was not raised as an issue in the assessment of that application, I note it was assessed under a previous Development Plan and as such within a different policy context.

8.0 Appropriate Assessment

- 8.1. I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located approx. 165m from the South Dublin Bay and River Tolka Estuary SPA (site code 004024) and the South Dublin Bay SAC (site code 000210). The development comprises the retention of off-street parking and vehicular access and permission for amendments to roadside boundary. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion stems from the limited scale and nature of the development and the lack of connections to the nearest environmentally sensitive site.

I conclude that on the basis of objective information, that the development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

- 9.1. I recommend that permission be refused based on the reasons and considerations set out below.

10.0 Reasons and Considerations

1. The development for which permission and retention permission is sought and which is to facilitate a private vehicular entrance involves the loss of an on-street parking facility. The development would be contrary to Policy SMT25 and Section 8.5.7 which seeks to manage on-street parking to serve the needs of the city and Appendix 5, Section 4.1 and 4.3 of the Dublin City Development Plan 2022-2028 which states that there is a presumption against the removal of on-street parking spaces to facilitate the provision of vehicular entrances to single dwellings in predominantly residential areas where residents are largely reliant on on-street car-parking spaces or where there is a demand for public parking serving other uses in the area. The development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The vehicular access and associated ditching would adversely impact on the mature street tree which lends itself to the character of the street and would be contrary to Section 15.6.9 (Trees and Hedgerows) and Appendix 5, Section 4.3.2 (Impact on Street Trees) of the Dublin City Development Plan 2022-2028. The development would therefore seriously injure the amenities of the area and of property in the vicinity, and would set an undesirable precedent for other similar property in the vicinity, and would, therefore, 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.

Bernadette Quinn
Planning Inspector

19th June 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317726-23		
Proposed Development Summary	Retention of off street parking and vehicular access and permission for new gates to roadside boundary.		
Development Address	16 Newgrove Avenue, Sandymount, Dublin 4, D04 KW32		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____