

An
Bord
Pleanála

Inspector's Report ABP318967-24

Development	Vehicular access and driveway.
Location	No. 27 Hardiman Road, Drumcondra, Dublin 9.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	WEB1984/23.
Applicant(s)	Aogan O'Fearthail & Frances Ui Fearthail.
Type of Application	Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party
Appellant(s)	Aogan O'Fearthail & Frances Ui Fearthail.
Observer(s)	None.
Date of Site Inspection	20/03/24.
Inspector	Anthony Abbott King

1.0 Site Location and Description

- 1.1. No. 27 Hardiman Road is a two-storey two-bay mid-terrace suburban house in a streetscape of similar houses. The houses on the south side of Hardiman Road have linear front and rear gardens.
- 1.2. The streetscape on the south side of Hardiman Road comprises one side of a residential avenue. There are a number of mature trees that are located at intervals along the avenue.
- 1.3. The street trees are located within the footpath zone of the carriageway on Hardiman Road and punctuate the linear alignment of the avenue on either side of the street.
- 1.4. There are no formal designated on-street parking bays on Hardiman Road. However, the street frontages where the original boundary treatment is in place and in instances where there are vehicular entrances (blocking the entrance) is used for informal parking.
- 1.5. The majority of houses in the streetscape have off-street in curtilage front garden parking. However, no. 27 Hardiman Road and the adjoining house at no. 29 Hardiman Road have their original boundary treatment intact comprising a pedestrian gate and front boundary railings.
- 1.6. The site area is given as 209m².

2.0 Proposed Development

- 2.1. Vehicular entrance and in curtilage front garden parking.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following reason:

(1) 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 2.5m-wide proposed vehicular entrance and the required associated splayed footpath 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 15.6.9 Trees and Hedgegrows, and Objective GI041 Dublin City Tree Strategy 2016 of the Dublin City Development Plan 2022-2028, and contrary to section 4.3.2 of appendix 5 of the Dublin City Development Plan. It would seriously injure the amenities of properties in the vicinity, 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 reflects the recommendation of the planning case officer.

3.2.2. Other Technical Reports

- The Transportation Planning Division recommend the refusal of planning permission having regard to the location of a mature / medium street tree to the front of the subject site. It is considered that it would not be possible to construct the 2.5m proposed vehicular entrance and footpath dishing without impacting on the tree root zone.
- The Parks & Landscape Services section of Dublin City Council note by email that for a tree of this size a 2.5m buffer zone between the tree trunk and dishing should be in place to protect the tree. Tree protection (fences) must be in place for the duration of the works.

4.0 Planning History

There is no recent relevant planning history on site.

5.0 Policy and Context

5.1. Development Plan

The following policy objectives *inter alia* of the Dublin City Development Plan 2022-2028 are relevant:

The applicant site is zoning objective Z1 (Map B) (Residential): *to protect, provide and improve residential amenities.*

- Chapter 8 (Sustainable Mobility and Transport) is relevant and *inter alia* provides for the following:

Section 8.5.7 (car parking) is relevant, which provides for strong car parking policy implementation in Dublin City.

- Policy Objective SMT25 states in the matter of on-street parking the following:

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 re-organisation 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

- Policy SMT2 (De-carbonising Transport) is relevant and states:

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

- Policy 2MT29 (Expansion of the EV Charging Network) is relevant and states:

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.

- Vehicular Entrances and Front Garden Parking

Appendix 5, Section 4.0 (Car Parking Standards) of the Dublin City Development Plan 2022-2028 is relevant.

- Section 4.1 (On Street Parking) is relevant and *inter alia* states:

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 (Parking in Front Gardens), which *inter alia* states:

Panning 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. 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.

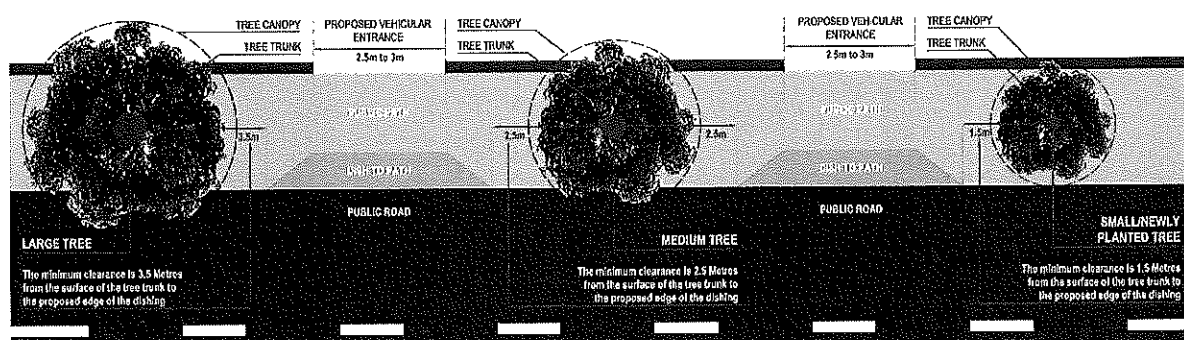
- Section 4.3.1 (Dimensions & Surfacing) is relevant and *inter alia* states:

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. Where a shared entrance for two residential dwellings is proposed, this width may increase to a maximum of 4 metres.

Furthermore, 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..... The extent of the associated dishing of the footpath and kerb for a vehicular entrance shall not negatively impact on existing street trees and tree root zone. A minimum clearance will be required from the surface of the tree trunk to the proposed edge of the dishing. Figure 1 illustrates the various minimum clearance distances required, based on the maturity of the street tree.*

Figure 1: Street Trees and Vehicular Entrances



5.2. EIA Screening

5.3. The proposed development is not within a class where EIA would apply.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of this first-party appeal are summarised below:

- The appellant wishes to provide safe, secure parking at their property. On four occasions in the past three years their vehicle has been broken into / vandalised. Secure parking near to their property is becoming increasingly difficult as 81% of properties on Hardiman Road have off-street parking in driveways (there are 60 houses along Hardiman Road / 49 enjoy off-street parking);
- The planning decision report states that the proposed development would set an undesirable precedent. However, the planner's report cites under relevant planning nearby that a similar development at no. 33 Hardiman Road was granted permission (retention). The dishing of the footpath was not required by the permission. A further similar development was also granted permission at no. 6 O Neachtain Road;
- The planning authority did not give the appellants an opportunity to be heard, to alter / revise their drawings to address matters arising from the planning assessment. However, the case officer notes that approval for a similar application at O Neachtain Road (WEB 1658/23) was approved after the submission of revised plans as further information;
- The substantive reason for refusal is the location of a tree to the west side of the proposed vehicular entrance. However, the competent authority, namely the tree officer, by email on the 8th January, 2024, states that a buffer zone of 2.5m from the tree to the splayed footpath is a sufficient separation distance. There is a separation distance of 2.536m. The tree officer feels there is adequate space from tree to splay and recommends permission;
- The on street parking by others in front of the appellants house is damaging the tree roots and bark. The case officer notes that if the planning application is allowed the risk of damage to the street tree will be reduced preventing parking on the footpath. The appellants agree with the planning case officer;
- The footpath is dished for a 5m distance to the immediate east of the proposed vehicular entrance. The case officer does not refer to this fact in the planning assessment. Along with the proposed 2.5m dishing this provides more than the required open space.

- There are 12 car parking openings on Hardiman Road that are close to or beside tree root systems. Most are within 1.5m of the trees. Two are dished up-to the tree and one is dished up-to and around the tree. In instances openings have no dishing;
- The appellants claim that they are penalised for trying to properly adhere to planning laws.
- The appellant guarantees to install protection fences around the tree during works as required by the tree officer and to engage with the planning authority on any alterations to the dishing design to the requirements of the planning authority if a positive decision is recorded.

6.2. Planning Authority Response

The planning authority acknowledges that an appeal has been lodged and that the observations of the planning case officer have been sought

6.3. Observations

None

7.0 Assessment

- 7.1. The following assessment covers the points made in the appeal submission, the reason for refusal and is a consideration of the overall proposed development. It is noted there are no new substantive matters for consideration.
- 7.2. The appellant applied to Dublin City Council for a vehicular entrance and in curtilage front garden parking at no. 27 Hardiman Road, Drumcondra, Dublin 9. The proposed development would require the removal of the pedestrian entrance, the provision of a vehicular entrance, the dishing of the footpath and, the part hard surfacing of the front garden with permeable paving. A residual area comprising a narrow planter (400mm) and a bin storage area positioned close to the street frontage would be located along the shared property boundary with no. 29 Hardiman Road to the west.
- 7.3. The vehicular entrance (2500mm) would be located tight with the eastern property boundary. The entrance would be located approximately 2500mm from a mature

medium sized tree located along the street frontage in the footpath. The planning authority refused planning permission citing the protection of the subject tree. In this regard the planning authority concluded that the dishing of the footpath would potentially cause damage to the root zone of the tree located approximately 2.5m from the proposed vehicular entrance.

- 7.4. The appellant states that on four occasions in the past 3 years their vehicle has been broken into / vandalised. It is claimed by the appellant that secure parking near to their property is becoming increasingly difficult as 81% of properties on Hardiman Road have off-street parking in driveways. I note on the day of my site visit that the majority of houses on Hardiman Road have in curtilage front garden parking. However, no. 27 Hardiman Road and the adjoining no. 29 Hardiman Road retain their front gardens (grassed) and have their original street railings intact.
- 7.5. Section 4.1 (On Street Parking) is relevant in the matter of managing public car parking in the city. 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 appellant notes that there are 60 houses along Hardiman Road and 49 enjoy off-street parking.
- 7.6. There are no formal designated on-street parking bays on Hardiman Road. However, the street frontages where the original boundary treatment is in place, and in instances where there are vehicular entrances (blocking the entrance), are used for informal on-street parking. It is considered in practical terms that the provision of an off-street car parking space would result in the removal of an informal on-street car parking space.
- 7.7. The substantive reason for refusal is the potential damage that the dishing of the footpath would cause to the street tree located proximate to the proposed vehicular access. The Transportation Planning Division recommend the refusal of planning permission having regard to the location of a mature / large street tree to the front of the subject site and the potential impact on the tree root zone. The Transportation Planning Division considered that it would not be possible to construct the 2500mm

proposed vehicular entrance and associated footpath dishing while providing the required clearance distance for a large street tree (3500mm).

- 7.8. Appendix 5, Section 4.3.2 (Impact on Street Trees) of the Dublin City Development Plan 2022-2028 *inter alia* states that in all cases, a proposed vehicular entrance shall not interfere with any street trees. In this regard the extent of the associated dishing of the footpath and kerb for a vehicular entrance shall not negatively impact on existing street trees and the tree root zone. A minimum clearance will be required from the surface of the tree trunk to the proposed edge of the dishing. The tree officer by e-mail considered that a 2500mm separation distance to the trunk of the tree would be sufficient.
- 7.9. I consider that the subject street tree is a medium size tree. Therefore, a clearance distance of 2500mm is required from the surface of the tree trunk to the vehicular access dishing (See above Figure 1: Street Trees and Vehicular Entrances). The proposed separation distance from the tree trunk is given by the applicant as 2536mm. However, this measurement appears to be from the centre of the tree trunk rather than the surface of the trunk. The relevant separation distance measured to the surface of the tree trunk is 2400mm, which is a marginally deficient clearance distance.
- 7.10. The applicant illustrates the proposed vehicular entrance on the submitted drawings showing a minimum standard opening of 2500mm. However, the applicant does not show the extent of the dishing required to facilitate the entrance. The proposed separation distance from the tree trunk is given as 2536mm. There is a requirement on the west side of the vehicular entrance to dish the footpath beyond the 2500mm vehicular opening. The additional area required to complete the dishing to the west would require an approximate 1000mm of additional frontage.
- 7.11. The garden width is given as approximately 4500mm. The street tree is located approximately 300mm west of the shared property boundary with no. 29 Hardiman Road. The aggregate distance from the eastern property boundary with no. 25 Hardiman Road to the tree trunk is approximately 4800mm. The requirement to provide the minimum standard vehicular entrance opening (2500mm) and the associated dishing (approximately 1000mm either side of the opening) would require an aggregate 3500mm of frontage to the west of the eastern property boundary.

- 7.12. The vehicular access and associated dishing would leave a deficient residual separation distance to the tree trunk surface of approximately 1300mm. The appellant cannot extend the clearance distance by repositioning the access to the east, as the proposed vehicular entrance is tight to the eastern property boundary. I consider given the deficient clearance distance that would result from the dishing of the area to the west of the proposed vehicular entrance, within the recommended clearance buffer zone provided by Figure 1 (Street Trees and Vehicular Entrances), that there is potential to damage the root system of the street tree.
- 7.13. Section 4.3.2 ((Impact on Street Trees) provides that proposals for a new entrance or widen of 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. I do not consider that exceptional circumstances apply in the instance of the proposed development. I consider notwithstanding the desire of the appellant to provide dedicated in curtilage car parking for convenience and security purposes, that the proposed development would be inconsistent with Appendix 5, Section 4.3.2 (Impact on Street Trees) of the Dublin City Development Plan 2022-2028, which seeks to protect street trees from loss or damage.
- 7.14. Finally, the appellant cites two grants of planning permission cited as relevant in the planning case officers report. in the matter of no. 33 Hardiman Road granted retention permission under register reference 2782/18. This permission was granted prior to the adoption of the current development plan. In the matter of no. 6 O Nechtain Road granted planning permission under WEB1658/23, the proximity of a street tree to the vehicular entrance was also at issue. However, the planning authority concluded that the required clearance distance from the street tree would be achieved.
- 7.15. In conclusion, there is a mature street tree located in the footpath on this section of Hardiman Road located approximately 300mm west of the shared property boundary with nos. 27 and no. 29 Hardiman Road. The proposed minimum standard vehicular access opening (2500mm) and associated dishing (approximately 1000mm) would require a street frontage of 3500mm. This requirement would leave a residual deficient clearance distance from the surface of the tree trunk of the street tree to the proposed edge of the dishing of approximately 1300mm.

7.16. A minimum clearance of 2500mm is required by Appendix 5, Section 4.3.2 (Impact on Street Trees) of the Dublin City Development Plan 2022-2028. I conclude that there is significant risk that the root system of the subject tree would be damaged by the proposed development works given the deficient clearance distance from the dishing to the surface of the tree trunk.

7.17. **Appropriate Assessment Screening**

The proposed development comprises a vehicular entrance and an in curtilage car parking space in 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 refusal of planning permission 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 of the Dublin City Development Plan 2022-2028, it is considered that the proposed development by reason of a deficient clearance distance between the proposed vehicular entrance and associated dishing and the surface of the trunk of a street tree located in the footpath along this section of Hardiman Road, would have a negative impact on the root zone of the existing mature street tree and, as such, would be contrary to the provisions of Appendix 5, Section 4.3.2 ((Impact on Street Trees) of the Dublin City Development Plan 2022-2028 and would be inconsistent with the proper planning and sustainable development of the area.

10.0 Refusal

1.	Having regard to the location of a mature street tree in the footpath along this section of Hardiman Road to the front of the subject site, it is considered that it would not be possible to construct the 2.5m-wide proposed vehicular entrance and the required associated splayed footpath dishing without negatively impacting on the tree root zone of the existing street tree given the deficient residual clearance distance between the proposed vehicular access and dishing and the surface of the tree trunk. Therefore, the proposed development would be contrary to the provisions of Appendix 5, Section 4.3.2 (Impact on Street Trees) of the Dublin City Development Plan 2022-2028, would seriously injure the amenities of properties in the vicinity, would set an undesirable precedent and, as such, would be inconsistent with the proper planning and sustainable development of the area.
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"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".


Anthony Abbott King
Planning Inspector

22 March 2024