



An
Bord
Pleanála

Inspector's Report ABP319132-24

Development

Permission sought for car parking space in front garden, provision of vehicular access with alterations to front garden wall, also vehicle charging point.

Location

8 Tivoli Avenue, Harold's Cross,
Dublin 6W, D6WKW59.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

4878/23.

Applicant(s)

Roisin Cunningham.

Type of Application

Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal

First Party

Appellant(s)

Roisin Cunningham.

Observer(s)

One observation
(1) Philip O'Reilly

Date of Site Inspection

22/04/2024.

Inspector

Anthony Abbott King.

1.0 Site Location and Description

- 1.1. No.8 Tivoli Avenue is located on the north side of Tivoli Avenue. Tivoli Avenue is within an inner suburban location with direct access to Harold's Cross Road, which accommodates a radial bus service.
- 1.2. Tivoli Avenue gives access to Wilfrid Road, which in turn links Harold's Cross Road with Kimmage Road Lower via Casimir Road.
- 1.3. The subject house is a mid-terrace 2-storey house in a terrace of 11 similar terraced houses. The streetscape also comprises two-semi-detached houses at the western end of the streetscape. The majority of the houses in the terrace, including no. 8 Tivoli Avenue, are served by a rear vehicular access lane.
- 1.4. There is on-street car parking provision clearly demarcated on Tivoli Avenue. The north subject streetscape comprises front gardens with pedestrian access gates. 4 number front boundaries of the 13 houses in the streetscape have been altered to facilitate off-street vehicular parking.
- 1.5. It is noted that no. 1 Tivoli Avenue also has in curtilage front garden vehicular parking. However, access is facilitated from the side of the property.
- 1.6. The site area is given as 197.64 sqm.

2.0 Proposed Development

- 2.1. The proposed development comprises the provision of a car parking space in the front garden and the alteration of the existing boundary wall to facilitate vehicular access.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following reason

(1) The development would result in the removal of on-street parking to accommodate private vehicular entrances, which would be contrary to the policy of the planning authority, as set out in Appendix 5, Section 4.1 of the

Dublin City Development Plan 2022-2028, and Policy SMT25 and section 8.5.7 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 site is located in an area where there is a heavy reliance on on-street parking and the proposed new vehicular entrance and front garden parking area would result in the loss of existing on-street parking reducing supply available to residents on the street and in the wider area. The proposed development would, therefore, be contrary to the stated policy, would set an undesirable precedent for other similar developments in the area, and would therefore seriously injure the amenity of the neighbouring properties and as such is 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 Transport Planning Division recommends the refusal of planning permission.

4.0 Planning History

The following planning history is relevant:

WEB1910/21 (ABP312023-21) – Split Decision. Vehicular entrance refused by reason of the loss of on-street parking at no. 12 Tivoli Avenue adjacent to the applicant site.

Reasons and Considerations (2) of ABP312023-21 is relevant and states:

- 1. It is the objective of Dublin City Council under Policy MT14 of the Dublin City Development Plan 2016-2022 to seek to retain on-street parking as a resource for the city as far as practicable. It is considered that the site is located in an area where there is heavy reliance on on-street parking and that the proposed development of a new vehicular entrance and front garden*

parking bay would result in the loss of existing controlled on street parking reducing the supply available to residents on street and in the wider area. The proposed development would, therefore, materially contravene Policy MT14 and would be contrary to the proper planning and sustainable development of the area.

2. *It is considered that the construction of a new boundary wall centred on the laneway would eliminate an existing on-site parking bay and may interfere with access to drainage infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

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 H) (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 (Transport and Mobility: Technical Requirements), 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:

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.

The basic dimensions to accommodate the footprint of a car within a front garden are 3 metres by 5 metres.

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 appeal statement is accompanied by a series of mounted photographs. The grounds of appeal are summarised below:

- The proposed development would not reduce the provision of on-street parking on Tivoli Avenue, the principal reason for refusal of vehicular access with alterations to front garden wall and vehicular charging point by the planning authority.
- The space outside no. 8 and no. 9 Tivoli Avenue shows an area zoned for parking. The subject on-street parking as designated does not provide adequate legal parking for 2 cars, as it measures 6.8m in length rather than the guided length of 9.6m-12m for two parking spaces.
- The Design Manual for Urban Street Parking (DMURS), Section 4, provides guidance for on-street parking spaces, which should measure 6m x 2.4m or a minimum of measurement of 4.8m x 2.4m. Therefore, the car parking area outside no. 8 and no. 9 Tivoli Avenue should be zoned for one car only. The appellant challenges the point that there is a loss of a legal parking space on the street as a result.

- Illegal parking in the designated space outside the appellant's house at no. 8 Tivoli Avenue blocks access to the pedestrian gate into the front garden of the house. The appellant refers the Board to photographs attached to the appeal statement including illustrating parking in front of the pedestrian access.
- The appellant claims that 50% of the properties on the road have a driveway. The houses on either side of the appellant has a driveway. The appellant clarifies in the appeal statement and by photograph that the property adjoining at no. 9 Tivoli Avenue enjoys off-street parking. The appellant claims this results in illegal parking in the designated on-street car parking space outside the applicant's property.
- The appellant refers the Board to Inspector's Report ABP315353-22 (15th July, 2023 – at 42, Royal Canal Bank, Dublin 7), which addresses similar issues as highlighted in the subject appeal. While the appellant understands that the decision of An Bord Pleanála does not constitute a precedent considerations in the instance of the cited inspectors report are relevant to this appeal.
- The appellant disputes the point that this is a high-pressure parking street. The appellant claims that most of the traffic is through traffic not requiring on-street parking on this one-way access street with restrictions during peak traffic times. There is sufficient additional car parking available for the commercial businesses adjacent to Tivoli Avenue. The on-street car parking on Tivoli Avenue is therefore taken up by residents (potentially for second cars) and visitors.
- The appellant intends to move to an EV in line with the environmental objectives of the Dublin City Development Plan 2022-2028. There are no EV charging points on Tivoli Avenue or adjacent. The appellant wants to install an EV charging point to the front of the subject house. The driveway would enable the appellant to charge the proposed EV safely.
- The appellant would be amenable to a condition requiring a slight amendment to the proposed entrance location in order to retain an on-street car parking space between no. 8 and no. 9 Tivoli Avenue. Attachment 3 of the appeal

provides a rough outline of where the driveway could be positioned to retain a legal on-street car parking space.

6.2. Planning Authority Response

The planning authority request the Board to uphold the decision to refuse planning permission. A condition requiring the payment of a Section 48 financial contribution is requested in the event of a grant of planning permission.

6.3. Observations

There is one observation from the resident of no. 68 Gandon Close, Harold's Cross, Dublin 6W, which is summarised below. Gandon Close is approximately 400m to the north west of the applicant site:

- The clear policy objective of development plans for a number of years has been the priority given to the maintenance of on-street parking facilities in residential areas zoned Z1 or Z2. The local authority and An Bord Pleanála have upheld these objectives on numerous occasions.
- The proposed development is subsequent to a separate proximate recent refusal for off-street parking at no. 30 Kenilworth Park by the local authority and an Bord Pleanála.
- There have been hundreds of refusals for off-street parking in Dublin 4,6 and 6W over recent years.
- The proposed space for off-street parking is too small to be compatible with the maintenance and retention of an acceptable level of visual, environmental and residential.
- The reasons for refusal reiterate the reasons given by the local authority and upheld by An Bord Pleanála for the previous refusals of off-street parking over the years and this application should not be treated differently.

7.0 Assessment

7.1. I have examined the file, the submissions of all parties and inspected the site. I have assessed the proposed development and there are no new substantive matters for consideration. I am satisfied that the following are the planning matters arising:

- The principal of development
- The configuration of the in-curtilage vehicular parking

Principal of Development

7.2. The appellant applied to Dublin City Council for a vehicular entrance and in curtilage front garden parking at no. 8 Tivoli Avenue, Harold's Cross, Dublin 6W. The proposed development would require the removal of the pedestrian entrance (c.850mm wide), the provision of a vehicular entrance and, the part hard surfacing of the front garden with selected coloured chippings. The vehicular parking space would be 3000mm in width and 4530mm in length. No entrance gate is shown on the submitted drawings.

7.3. The dept of the rear garden to the inside of the front boundary wall is given as 5530mm. A residual front garden area comprising a grass verge (1250mm) along the east boundary and a grass lawn (1800mm) along the western boundary would be created by the in-curtilage parking footprint. The configuration of the car space would provide a 1000mm separation distance between the parking area and the front door threshold. An EV vehicular charging point would be located beside the entrance door.

7.4. The appellant clarifies in the appeal statement and by photograph that the property adjoining at no. 9 Tivoli Avenue enjoys off-street parking with vehicular access from the street. The appellant explains that architect mistakenly marked it as a single gate pedestrian access on the drawings submitted to the planning authority.

7.5. The appellant claims that 50% of the properties on the road have a driveway. On the day of my site visit I noted the streetscape comprises front gardens with pedestrian access gates on the north side of the street, including no. 8 Tivoli Avenue. 5 number houses of the 13 houses in the streetscape have been altered to facilitate off-street vehicular parking. It is noted that in-curtilage front garden parking at no. 1 Tivoli

Avenue is accessed from the side boundary of the property and that the original front boundary treatment is in place.

- 7.6. The Transport Planning Division of the planning authority recommends the refusal of planning permission. The Transport Division report states that there is controlled on-street car parking scheme in place on Tivoli Avenue. The Report notes that the majority of properties on Tivoli Avenue rely on on-street parking. In this regard Appendix 5 (Transport and Mobility: Technical Requirements), Section 4.1 (On-Street Car Parking) is relevant. The section provides that 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.
- 7.7. I consider that these circumstances arise in the instance of the subject proposal in particular the reliance of adjoining residents on on-street parking provision given the number of houses without in-curtilage parking. The observer to the appeal notes that the clear policy objective of development plans for a number of years has been the priority given to the maintenance of on-street parking facilities in residential areas zoned Z1 or Z2.
- 7.8. The appellant has cited an ABP inspector's report in support of the proposal in the matter of an off-street vehicular entrance at no. 42, Royal Canal Bank, Dublin 7 (15 July, 2023). The cited example must be contextualised in the refusal of permission for similar developments to the subject proposal in the immediate vicinity of the applicant site including at no. 12 Tivoli Avenue (WEB1910/21 (ABP312023-21) – see planning history above.
- 7.9. The Transport Planning Division note that a circa. 7m on-street car parking bay not shown on the submitted drawings would be removed to facilitate the proposal for an in-curtilage parking space. Section 8.5.7 (Car Parking) of the Dublin city Development Plan 2022-2028 is relevant and provides for strong car parking policy implementation in Dublin City. Policy SMT25 requires *inter alia* the active management of 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 elsewhere. I consider that proposed development to provide for an in-curtilage car parking space would remove a designated on-street car parking space and as such would be inconsistent with Policy SMT25 of the Dublin City Development Plan 2022-2028.

- 7.10. In the matter of the accessibility of an EV charging point(s), the appellant claims that in-curtilage parking would facilitate the charging of an EV, as the appellant intends to purchase an EV and install an EV charger to the front of the house. It is noted that the planning authority supports the decarbonising of motorised transport and the provision of the expansion of the EV charging network by increasing the provision of designated charging facilities for electric vehicles on public land and private developments. However, in the instance of the proposal, the Transport Planning Division of the planning authority notwithstanding potential EV charging requirements recommends the refusal of planning permission on the grounds of the failure of the in-curtilage parking space to satisfy development plan standards.
- 7.11. The Transport Division Report states that a double garage is located in the rear garden of the house and that vehicular access from an unnamed lane to the rear of the site is available to the applicant. Furthermore, I note on the day of my site visit that there is no footpath on the north side of Tivoli Avenue, which would facilitate the charging of an EV immediately outside the property boundary without obstructing pedestrian flow - if the applicant chose to charge an EV vehicle on street.
- 7.12. Finally, the appellant states the Design Manual for Urban Street Parking (DMURS), Section 4, provides guidance for on-street parking spaces, which should measure 6m x 2.4m or a minimum measurement of 4.8m x 2.4m. The appellant claims that the subject on-street parking as designated does not provide adequate legal parking for 2 cars, as it measures only 6.8m in length rather than the guided length of 9.6m-12m for two parking spaces. Therefore, the car parking area outside no. 8 and no. 9 Tivoli Avenue should be zoned for one car parking space only.
- 7.13. The appellant challenges the substantive reason for refusal that there would be a loss of a legal parking space on street, given the deficiency in length of the two existing on-street spaces. I do not consider this matter material to the application for a vehicular entrance at no. 8 Tivoli Avenue. It is considered that informal on-street car parking provision at this location can be reconfigured and / or reduced to one-

space independent of the development proposal. Furthermore, on the day of my site visit I note that there is one demarcated parking bay to the front of no.8 and no. 9 Tivoli Avenue. It is considered that this on-street parking bay would have to be removed to facilitate in-curtilage parking at no. 8 Tivoli Avenue.

The configuration of the in-curtilage vehicular parking

- 7.14. Appendix 5 (Transport and Mobility: Technical Requirements), Section 4.3.1 (Dimensions & Surfacing) of the Dublin City Development Plan 2022-2028 is relevant. The Transport Planning Division of the planning authority states that the dept of the car parking space at 4500mm is substandard. Section 4.3.1 requires a minimum 3000mm x 5000mm basic dimension to accommodate the footprint of a car space within a front garden area. It is noted that depth of the car space is truncated to 4530mm in order to allow access to the front door of the house. The Transport Planning Division consider that the 4500mm dept proposed is substandard and may result in-curtilage parked car overhang the public road.
- 7.15. This matter is a consideration in the assessment of the overall merits of the proposal *inter alia*, the appellant has cited the inconvenience of illegally parked vehicles blocking the existing pedestrian entrance from Tivoli Avenue including for incoming deliveries, buggy or wheelchair access and outgoing access for bins and bicycles. It is considered that an in-curtilage car parking space that may satisfy development plan standards would require a reduction in the separation distance between the entrance door to the house and the car park footprint, which would likewise obstruct access to the threshold of the house.
- 7.16. Finally, the appellant has stated that he is amenable to a condition requiring a slight amendment to the proposed entrance location in order to retain an on-street car parking space between no. 8 and no. 9 Tivoli Avenue. Attachment 3 of the appeal statement provides a rough outline of where the driveway could be positioned to retain a legal on-street car parking space. I consider that any amendment of the vehicular access location is not material as the dept of the in-curtilage car parking is substandard.

Conclusion

- 7.17. In conclusion, the proposed in-curtilage car parking space measuring 3000m in width and 4530mm in length would be substandard as it would fail to satisfy the

3000m x 5000m basic dimensions to accommodate the footprint of a car within a front garden area. Furthermore, the provision of an off-street car parking space and a vehicular entrance at no. 8 Tivoli Avenue would remove a designated on-street car parking space. I conclude that the proposed development would be inconsistent with development plan policy, including Appendix 5 (Transport and Mobility: Technical Requirements) and Policy Objective SMT25 (management of on-street car parking) of the Dublin City Development Plan 2022-2028.

7.18. 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 provided by the Dublin City Development Plan 2022-2028, it is considered that the proposed development would be contrary to the provisions of Appendix 5, (Transport and Mobility: Technical Requirements), Section 4.1 (On-Street Car Parking) and Section 4.3.1 (Dimensions & Surfacing) and Policy Objective SMT25 (management of on-street car parking) of the Dublin City Development Plan 2022-2028 and, as such, would be inconsistent with the proper planning and sustainable development of the area.

10.0 Refusal

1.	The development would result in the removal of on-street parking to accommodate private vehicular entrances, which would be contrary to the
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policy of the planning authority, as set out in Appendix 5, Section 4.1 (on-street car parking) of the Dublin City Development Plan 2022-2028, and Policy SMT25 and Section 8.5.7 (car parking), 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 site is located in an area where there is a heavy reliance on on-street parking and the proposed new vehicular entrance and front garden parking area would result in the loss of existing on-street parking reducing supply available to residents on the street and in the wider area. Furthermore, the proposed development would be inconsistent with Section 4.3.1 (dimensions & surfacing) of Appendix 5 of the Dublin City Development Plan 2022-2028. The proposed development would, therefore, be contrary to the stated policies, would set an undesirable precedent for other similar developments in the area, and would therefore seriously injure the amenity of the neighbouring properties and as such is 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.



Anthony Abbott King
Planning Inspector

26 April 2024