



An
Bord
Pleanála

Inspector's Report

ABP-319314-24

Development	Widening of front vehicular entrance gate to facilitate parking for 2 no cars in the front driveway, no changes are proposed to the crossover to public footpath. All associated works.
Location	Grasia, 77A, Orwell Road, Dublin 6, D06K5A0
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4988/23
Applicant	Alison Sharkey
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Refusal
Appellant	Alison Sharkey
Observer(s)	None.
Date of Site Inspection	16 th July 2024
Inspector	Matthew O'Connor

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.029ha and comprises a three-storey semi-detached situated on the eastern side of Orwell Road to the south of the core area of Rathgar. The subject site is located to the immediate south of the recently developed 'Marianella' residential complex and is proximate to the road junction of Orwell Park. The semi-detached block, which the appeal site forms part of, appears to have been developed in the recent past and replaced earlier structures/buildings on a corner plot. The semi-detached units both have off-street car parking in the front curtilage area with modest rear gardens.
- 1.2. The segment of Orwell Road where the appeal site is situated is primarily residential in character with some supporting community and professional services. There is some limited street parking in delineated sections along Orwell Road. There are a variety of house types inclusive of detached and semi-detached units with differing designs and styles. Many of the houses maintain a similar building line which largely respects each section of road/street and include off-street parking. The boundary treatments vary along Orwell Road and the adjoining road network but generally include low level stone walls, railings and various landscaping treatments behind same. There is on street parking available on certain parts of Orwell Road with double yellow lines present at the appeal site.

2.0 Proposed Development

- 2.1. The proposed development, as described in the statutory development description, effectively comprises the widening of vehicular entrance gate for 2 no. cars in the front driveway and all associated works.
- 2.2. The existing entrance will increase in width from 4.060 metres to 5.250 metres (totalling 1.19 metres) and the proposed works will comprise the moving of a granite pier and adjustment to metal railing to accommodate a new sliding gate.

3.0 Planning Authority Decision

- 3.1. The Planning Authority refused permission on 19/02/2024 for one reason which is stated as follows:

1. *Having regard to the Dublin City Development Plan 2022-2028, the Z2 zoning objective (Residential Neighbourhood – Conservation Areas), and the policies regarding parking, specifically Appendix 5, Section 4.3 (Parking in Front Gardens), Section 4.3.1 (Dimensions and Surfacing) and Section 4.3.9 (Parking in the Curtilage of Protected Structures, ACA's and Conservation Areas), it is considered that the proposed development would be contrary to the relevant provisions of the Development Plan, would adversely impact on pedestrian safety, and would set an undesirable precedent in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

4.0 Planning Authority Report(s)

4.1 Planning Report

- The Planner's Report is dated 09/02/2024 and forms the basis for the decision to refuse permission.
- The report provides a description of the site, indicates no planning history, identifies the land use zoning designation and associated policy context from the Dublin City Development Plan 2022-2028.
- Comments returned from the Transportation Planning Division who recommended refusal of permission are referenced.
- The Planning Authority raise no concerns with respect to AA or EIA.

4.2 Other Technical Reports

- Transportation Planning Division - Recommended refusal on the basis that the proposed widening of the vehicular entrance to 5.2m would be contrary to Appendix 5 of the Dublin City Development Plan 2022-2028 where the maximum width permitted for vehicular entrances is 3.0 metres; the avoidance of creating traffic hazards for passing traffic and minimising impacts on existing on-street car parking. The proposed widened entrance and associated dishing would be excessively wide contrary to Development Plan requirements and would result in the loss of an on-street parking space. The proposed development would set an unacceptable precedent.

- Drainage Division - Recommended 'no objection' to proposal, subject to compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.

4.3 Prescribed Bodies

- Irish Water/Uisce Eireann - No comments/observations indicated as being received.

4.4 Third Party Observations

- None.

5.0 Relevant Planning History

5.1 The following valid planning history is associated with the subject site area:

1978/07 - Retention permission **GRANTED** for two single storey conservatories each of 27.50sqm at the rear of two approved houses, planning reg. ref. 1551/05. An Bord Pleanála order no. PL29S.213321. Address: No. 77, Orwell Road, Rathgar, Dublin 6.

1551/05 - Permission **GRANTED** for the demolition of existing 2-storey 9-bedroom mews annexe to existing Orwell Lodge Hotel at No 77 Orwell Road & the construction of 2no 4-storey semi-detached 4 bedroom dwelling houses with front external balconies to third floor at No 77, Orwell Road. Additionally, works to include refuse storage, landscaping, new wall & railings to front boundary, 2no, new entrances to sites at No 77, Orwell Road and associated site works. Address: 77, Orwell Road, Rathgar, Dublin 6.

The decision of the Planning Authority to grant permission was appealed to An Bord Pleanála (PL 29S.213321) whereby the decision to grant permission was upheld albeit with modifications.

6.0 Policy Context

6.1 Development Plan

6.1.1 The Dublin City Development Plan 2022-2028 is the relevant development Plan for the subject site.

6.1.2 The site is zoned 'Z2' - Residential Neighbourhoods (Conservation Areas) with an objective '*to protect and/or improve the amenities of residential conservation areas*'.

Residential use is listed as a 'permitted in principle' development type in this zoning designation.

6.1.3 Volume 2 of the Dublin City Development Plan 2022-2028 contains a number of appendices containing notes and standards for various development types. Appendix 5 - 'Transport and Mobility: Technical Requirements' is relevant to the subject appeal.

6.1.4 Section 4.3 (Parking in Front Gardens) is directly relevant and the Development Plan states that:

Planning 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 offstreet 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.

6.1.5 Section 4.3.1 (Dimensions and Surfacing) is also relevant to the subject proposal and states that:

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.

[...]

Detailed requirements for parking in the curtilage of Protected Structures and in Conservation Areas are set out below in section 4.3.7.

The basic dimensions to accommodate the footprint of a car within a front garden are 3 metres by 5 metres. 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, or where safe access and egress from the proposed parking space cannot be provided, for example on a very busy road, opposite a traffic island or adjacent to a

pedestrian crossing or traffic junction or where visibility to and from the proposed access is inadequate. In certain circumstances, applicants may be required to demonstrate that vehicles can turn within the site and exit in forward motion.

6.1.6 Section 4.3.5 (Treatment of Front Boundaries) is also considered to be relevant as it sets out the many different types of boundary treatment in existence. It is stated that:

When considering any alterations, minimal interventions are desirable and proposals should aim to be complementary or consistent to others in the area which are of a high standard and in keeping with the overall character and streetscape.

6.1.7 Section 4.3.7 (Parking in the Curtilage of Protected Structures, Architectural Conservation Areas and Conservation Areas) is considered to be important on account of the site zoning. This section states:

‘features including boundary walls, railings and gardens make an important contribution to the character and setting of protected structures, ACAs and conservation areas. Therefore, poorly designed parking within the curtilage and front gardens of protected structures and in conservation areas can have a negative impact on the special interest and character of these sensitive buildings and areas. For this reason, proposals for parking within the curtilage and front gardens of such buildings will not normally be acceptable where inappropriate site conditions exist, particularly in the case of smaller gardens where the scale of intervention is more significant, and can lead to the erosion of the character and amenity of the area and where the historic plinths, decorative railings and gates, historic gate piers, and historic ground surfaces are still intact’.

The section also notes that where site conditions exist which can accommodate car parking provision without significant loss of visual amenity and/or historic fabric, proposals for limited off-street parking will be considered subject to compliance with a number of set criteria including but not limited to:

- high standard of design and integration into the sensitive context;
- appropriate surface treatments;
- that every reasonable effort is made to protect the integrity of the conservation area;
- sufficient depth available to accommodate a private parked car;
- that access to and egress from the proposed parking space will not give rise to a traffic hazard;

- that the remaining soft landscaped area to the front of the structures should generally be in excess of half of the total area of the front garden space, excluding car parking area;
- car parking bays shall be no greater than 5m x 3m wide; and,
- special regard shall be given to circumstances where on-street parking facilities are restricted as a consequence of bus priority/traffic management changes.

6.2 Natural Heritage Designations

6.2.1 The appeal site is not located on or within proximity to any designated Natura 2000 sites, with the nearest designated sites being the South Dublin Bay Special Area of Conservation (Site Code: 000210) and the South Dublin Bay & River Tolka Estuary Special Protection Area (Site Code: 004024) which are located approximately 4.85km to the east of the site. The Grand Canal pNHA (Code: 002104) is located approximately 2.5km to the north of the site and the Dodder Valley pNHA (Code: 000991) is located approximately 4.5km to the southwest of the site.

6.3 EIA Screening

Having regard to the proposed development, which is for the widening of an existing vehicular entrance in an established built-up urban area, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and as such preliminary examination or an Environmental Impact Assessment is not required. See Appendix 1.

7.0 The Appeal

7.1 Grounds of Appeal

7.1.1 The first party appeal has been prepared and submitted on behalf of Alison Sharkey against the decision of Dublin City Council to refuse planning permission. The main grounds of appeal can be summarised as follows:

- The subject dwelling approved permission and developed around 2007/2008 which included provision of 2 no. front curtilage spaces to serve dwelling. The appellant

claims that there has been a critical oversight as the Planning Report of the Planning Authority states 'No Planning History' for the lands.

- The assessment of the Transportation Planning Division is not valid as it has not taken full cognisance of the number of approved spaces on the site and references current Car Parking Standards for Zone 2 which allows for only 1 no. car space.
- The suburban site location and associated uses has put significant pressure on on-street parking in the immediate locality.
- The rationale for proposal seeks to address an existing hazardous arrangement. The appellant acknowledges that the development is not in keeping with some requirements of Appendix 5 of the Development Plan but that the design is more in keeping with the policy objectives by way of improving road safety at the site; reducing the number of entries/exits by fifty percent; and, would not affect sightlines, street trees or street parking.
- The layout of gate and front garden is not practical for existing 2 no. car parking spaces as it is required to manoeuvre vehicles to enable access in/out of site throughout the day and be close to the EV parking point.
- The site does not have a strong relationship to the Z2 zoning objective as it is a modern dwelling and not a Protected Structure. The design of the house does not relate to the houses in the locality.
- The Z2 zoning is designed for homogenous streetscapes of Victorian railings such as those located on Orwell Park. The railings/gardens which the application applies are not original and do not form part of the heritage character of the area. The alterations proposed do not alter the consistent style of the terrace to which they belong.
- The appeal refers to the parameters set out in Appendix 5 of the Dublin City Development Plan 2022-2028 including Section 4.3 (Parking in Front Gardens) where the appellant claims that the planning permission has been sought for alteration to the entrance to allow for improved access to the existing 2 no. car parking spaces approved in the front driveway and is not new parking provision.
- In terms of Section 4.3.1 (Dimensions and Surfacing) of Appendix 5 of the Dublin City Development Plan 2022-2028, there are 2 no. car parking spaces (5 metres X 3

metres) used daily by the inhabitants, however the current entry width at 4.2 metres is insufficient as it necessitates many manoeuvres a day to allow for both family cars.

- No overhanging occurs on the public footpath from the entrance, but the footpath is used in a hazardous manner whilst maneuvering cars. It would be safer to provide a wider gate to reduce the number of entries/exits onto Orwell Road from the subject site.
- Finally, the proposal is for a modest intervention and any concerns about setting a local planning precedent can be addressed through careful considerations of the application along with a clear explanation for same.

7.2 Planning Authority Response

7.2.1 A response letter from the Planning Authority has been received on file and requests that An Bord Pleanála uphold the decision to refuse permission.

7.3 Observations

7.3.1 There are no observations.

8.0 Assessment

8.1 Having examined the application details and all other documentation on file, the reports of the Planning Authority, having conducted an inspection of the site, and having reviewed relevant planning policies and guidance, I consider that the main issues in this first party appeal relate to the widening of the existing vehicular entrance from 4.060 metres in width to 5.250 metres in width to appropriately cater for two existing on-curtilage parking spaces.

8.2 I consider that the appeal can be addressed under the following relevant headings:

- Compliance Development Plan Policy/Standards
- Pedestrian Safety
- Visual Impact
- Appropriate Assessment (Screening)

8.3 In light of the above grounds, I am satisfied that no other substantive issues arise in this particular instance.

8.4 **Compliance with Development Plan Policy/Standards**

8.4.1 The Planning Authority has refused permission for a single reason on the basis that the proposed development would be contrary to the relevant provisions of the Dublin City Development Plan 2022-2028, namely the Z2 zoning objective and the policies regarding parking specifically set out in Section 4.3 (Parking in Front Gardens), Section 4.3.1 (Dimensions and Surfacing) and Section 4.3.7 (Parking in the Curtilage of Protected Structures, ACA's and Conservation Areas) of Appendix 5 - Transport and Mobility: Technical Requirements, would adversely impact on pedestrian safety, and would set an undesirable precedent in the area.

8.4.2 I have reviewed the Development Plan and note that Section 4.3.1 (Dimensions and Surfacing) of Appendix 5 states that a proposed vehicular opening shall be at least 2.5 metres or at most 3.0 metres in width. The proposal seeks to extend the existing vehicular entrance from 4.060 metres wide to 5.250 metres. This represents a total increase of 1.19 metres or an overall increase of 2.25 metres above the maximum prescribed Development Plan standard.

8.4.3 In considering the grounds for appeal, I do not accept the assertion of the appellant that the Transportation Planning Division did not take cognisance of the existing car parking serving the site as the recommendation of the Transportation Planning Division was primarily formed on the basis that the maximum width of a vehicular width is 3 metres and the proposed development would be excessively wide and therefore contrary to the Development Plan. Furthermore, the Planning Officer did not reference the number of car parking spaces in the decision to refuse permission.

8.4.4 I do note that the Transportation Planning Division suggested that the development would result in the loss of on-street a car parking space which is disputed by the appellant. I acknowledge that revised drawings submitted with the appeal accurately reflect the current double line marking on Orwell Road adjacent to the property and demonstrate that the proposal would now not impact on on-street car parking.

8.4.5 I also refer the Board to the wording contained in the statutory development description of the proposal which seeks *'to facilitate parking for 2 no cars in the front driveway'*. I

consider this description to be somewhat misleading especially where the appellant is already satisfied that the two parking spaces have the benefit of permission.

8.4.6 In considering the compliance of the proposed development with the Dublin City Development Plan 2022-2028, it is my view that the further widening of the vehicle entrance does not comply with Development Plan standards.

8.5 Pedestrian Safety

8.5.1 The grounds of appeal contend that the increased entrance width will address an existing hazardous arrangement on the site arising from the vehicle movements required both within and off the site to accommodate the appellant's two vehicles.

8.5.2 Having visited the site, I consider that the existing entrance does not cause a traffic/pedestrian hazard on account of its width but rather the hazardous arrangement, as described, arises from the appellant's own increased manoeuvres on the subject site from the two vehicles needing to negotiate the existing limited front curtilage area. The layout of this parking area at street/road level is stepped above the entrance door and contains some screen planting and a planter box which reduces the available space within the property and requires additional vehicle movements.

8.5.3 I have observed the adjoining dwelling to the immediate south which appears to contain the same sized vehicular entrance and front curtilage area, albeit sloped and paved, where two vehicles were parked at the time of inspection. While I cannot confirm that this property has no issues arising from internal manoeuvring of vehicles, I would contend that the layout lends itself to the provision of comfortable car parking for two vehicles and better scope to reposition vehicles within the site so as to reduce movements on/off site and limit potential conflict with pedestrians or other road users.

8.5.4 The appellant seeks a 1.19 metre wide extension to an existing entrance which is already 4.060 metres wide and 1.06 metres in excess of the stipulated maximum 3 metres wide parameter of the Development Plan. Whilst the widened entrance would facilitate easier movement of vehicles on and off the appeal site, the appellant has offered no alternative configurations, layouts or suggestions to alter or revise the front curtilage area to enable a more appropriate parking arrangement to accommodate two vehicles in this front area which would overcome the excessive manoeuvring of vehicles and negate the need to further increase the entrance width.

- 8.5.5 I consider that entrance widths which more readily accord with the Development Plan standard are desirable as they would reduce conflict with pedestrians and risk of accident from decreased speeds to and from entrances in addition to increased driver awareness at access/exit points. Additionally, it is my opinion that entrances with conventional widths in the range of 2.5 metres to 3 metres, as prescribed, ensures reduced or shorter crossing distances for more vulnerable pedestrians such as visually impaired people, cyclists and persons with strollers/buggies which limits risk of accidents.
- 8.5.6 Having regard to the proposal, I do not deem the conditions of the appeal site as in any way exceptional to merit consideration of a further increase in entrance width. Moreover, I am not satisfied that the widening of the entrance would assist in improving road/pedestrian safety concerns on this section of Orwell Road and I would also contend that the further increasing in the width of the entrance, for reasoning set out above, may serve to exacerbate public safety by reason of a traffic hazard due to its excessive width as opposed to improving public safety.

8.6 Visual Impact

- 8.6.1 I acknowledge the principle of the appellant's argument that the subject property is of a modern build, is not a Protected Structure, is not located within an Architectural Conservation Area and that the proposed adjustment works to the non-original granite piers and metal railings would constitute a relatively minor intervention. Notwithstanding, the appeal site is zoned 'Z2' - Residential Neighbourhood (Conservation Areas) which has a land-use zoning objective '*to protect and/or improve the amenities of residential conservation areas*'. I would contend that any new development within conservation areas should complement existing buildings/structures (both protected and non-protected) in terms of prevailing design, finishes, colours etc and harmonise with the existing streetscape and pattern of development in that particular area so as to protect these areas from unsuitable forms of developments/works that would impact negatively on the amenity or architectural quality of the area.
- 8.6.2 From my observations, the residential sections of Orwell Road are generally characterised by a range of house types with front boundaries of low-level stone/brick/block walls or railings above concrete plinths and/or a mix of various landscaping treatments. These individual domestic entrances appear largely original

and consistent in dimensions with few, if any, exceeding 3 metres in width. In this regard, owing to the excessive width of the revised entrance, I consider that the proposal would be visually incoherent with existing front boundaries in the vicinity and inconsistent with the overall character and streetscape of the Orwell Road area which would not accord with the overarching Z2 land-use zoning objective or the stated parameters set out in Section 4.3.5: 'Treatment of Front Boundaries' and Section 4.3.7: 'Parking in the Curtilage of Protected Structures, Architectural Conservations and Conservation Areas' of Appendix 5 of the Dublin City Development Plan 2022-2028.

8.6.3 Having regard to the circumstances outlined, I conclude that the further widening of the vehicular entrance would be unacceptable, and that the decision of the planning authority should be upheld.

8.7 Appropriate Assessment (Screening)

8.7.1 I have considered the proposed development comprising the widening of a vehicular entrance in light of the requirements S177U of the Planning and Development Act 2000 (as amended).

8.7.2 The subject site is located on a serviced site in an established suburban area approximately 4.8km from the nearest European Site(s) namely, the South Dublin Bay SAC (Site Code:000210) and the South Dublin Bay & River Tolka Estuary SPA (Side Code:004024). The proposed development comprises the widening of a vehicular entrance to serve the resident(s) of an existing dwelling. As such, the proposed development has no hydrological or other connection to any European site. No nature conservation concerns were raised in the appeal.

8.7.2 Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment as there is no conceivable risk to any European site. The reason for this conclusion is as follows - the small scale and nature of the development; the distance to the nearest European site and the lack of connections; and, taking into account the screening determination of the Planning Authority.

8.7.4 I conclude on the basis of objective information, that the proposed 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 a retrospective Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

9.0 Recommendation

9.1 I recommend that permission be refused.

10.0 Reasons and Considerations

10.1 Having regard to the existing vehicular entrance and layout of parking in the front curtilage area of the subject site, it is considered that the proposed development, comprising the widening of an existing 4.060 metre wide vehicular entrance to a width of 5.250 metres, would be visually incoherent with existing front boundaries in the vicinity of the site, would be inconsistent with the character and streetscape of the Orwell Road and would be contrary to Section 4.3.1: 'Dimensions and Surfacing', Section 4.3.5: 'Treatment of Front Boundaries' and Section 4.3.7: 'Parking in the Curtilage of Protected Structures, Architectural Conservation Areas and Conservation Areas' of Appendix 5 of the Dublin City Development Plan 2022-2028. The proposed widening of the entrance would not assist in improving road/pedestrian safety concerns on this section of Orwell Road and if permitted, may endanger public safety by reason of a traffic hazard due to its increased width. As such, the proposed development would set an undesirable precedent for similar developments on 'Z2' - Residential Neighbourhood (Conservation Areas) lands 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.

Matthew O Connor
Planning Inspector

1st August 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319314-24		
Proposed Development Summary	Widening of front vehicular entrance gate to facilitate parking for 2 no cars in the front driveway, no changes are proposed to the crossover to public footpath. All associated works.		
Development Address	Grasia, 77A, Orwell Road, Dublin 6, D06K5A0		
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			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)
			Conclusion
No	X	N/A	No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____