



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320484-24

<b>Development</b>	Permission to create a new vehicular access for off-street parking.
<b>Location</b>	335 Clogher Road, Crumlin, Dublin 12, D12 XT68
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	3708/24
<b>Applicant(s)</b>	James Sweeney
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	James Sweeney
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	01/10/24
<b>Inspector</b>	Kathryn Hosey

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located at 335 Clogher Road, Crumlin, Dublin 12 on lands zoned Z1 'to protect, provide and improve residential amenities'. The site comprises a mid – terrace two storey dwelling on a site area of 122.1sq.m.

The appeal site is accessed via pedestrian entrance comprising wrought iron style gate and low front boundary pebble-dashed wall with railing.

The appeal site is located along an established residential area with a mature tree lined streetscape. There is an existing mature tree located to the front of the appeal site the subject of this appeal application.

It was noted on the day of site inspection that the public footpath is very wide and a number of cars were observed parked on the footpath.

## **2.0 Proposed Development**

- 2.1. The appellant is seeking permission to provide in-curtilage car parking by way of widening of the existing entrance and provision of footpath dishing to accommodate the proposed works.

## **3.0 Planning Authority Decision**

- 3.1. The Planning Authority issued a decision to refuse permission for the proposed development 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 proposed entrance and 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 15.6.10 of the Dublin City Development Plan 2022-2028 and the Dublin City Tree Strategy, contrary to Section 4.3.2 in Appendix 5 of the City Development Plan and would seriously injure the amenities of property in the vicinity. The development 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 report of Dublin City Council had regard to the development plan policies and internal report received from the Transportation Planning Division. The principle of in curtilage parking was deemed preferable to the current footpath parking situation. The planning officer also stated that it would be preferable in the event of planning permission being granted that the pedestrian entrance be widened to no more than 3m and the gate pier relocated.

The Planning Officer recommended that permission be refused due to the potential impact of the proposed development on the existing mature street tree which was considered to be contrary to section 15.6.10 of the Dublin City Development Plan 2022 – 2028.

#### **3.2.2. Other Technical Reports**

3.2.3. The Transportation Planning Division in consultation with DCC Parks, Biodiversity and Landscape section noted there is a large tree at the public footpath to the front of dwelling no. 335. The Transportation Planning Division has recommended that permission be refused due to non-compliance with section 15.6.9 and Appendix 5, Section 4.3.2 of the Dublin City Development Plan 2022 – 2028.

3.2.4. Engineering Department (Drainage Division) - has stated no objections subject to recommended conditions.

### **3.3. Prescribed Bodies**

None

### **3.4. Third Party Observations**

None

## 4.0 Planning History

- 4.1. There is no relevant planning history pertaining to the appeal site. I do however note a SID LAP application within this area detailed as Tallaght/Clondalkin to City Centre BusConnect Core Bus Corridor Scheme Pl. Ref: ABP 316828-23 has been permitted on 17<sup>th</sup> October 2024.

I have looked at the plans and noted that a bus route and cycle lane will be provided at this location. The bus route will operate on a 24 hour basis. There will be a loss of informal car parking spaces along the Clogher Road.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2022 – 2028

The appeal site is governed by policies and objectives outlined within the Dublin City Development Plan 2022 – 2028 which came into effect on the 14<sup>th</sup> of December 2022.

The appeal site has a zoning objective Z1 ‘to protect, provide and improve residential amenities’.

The following policies and objectives are applicable;

#### ***G142 Tree Management;***

*‘To adopt a pro-active and systematic good practice approach to tree management with the aim of promoting good tree health, condition, diversity, public amenity and a balanced age-profile and as per Dublin City Tree Strategy 2016.’*

#### ***G144 Resilient Urban Forest;***

*‘To deliver and manage a resilient urban forest for the City to help increase resilience to the effects of climate change to consist of native and exotic trees and to target and*

*prioritise locations in the city with a low canopy cover for an increased level of tree cover.'*

#### **15.6.10 Tree Removal**

*'Where a proposal impacts on trees within the public realm, a revised design will need to be considered to avoid conflicts with street trees. Where a conflict is unavoidable and where a tree, located on-street, requires removal to facilitate a new development or widened vehicular entrance and cannot be conveniently relocated within the public domain, then when agreed by Parks Services and the Planning Department by way of condition to a grant of permission, a financial contribution will be required in lieu. The financial contribution is calculated by the Capital Asset Value for Amenity Trees (CAVAT) by an Arboriculturist. The payment is required to be lodged with Dublin City Council before the tree can be removed.'*

#### **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.'*

#### **Dublin Tree Strategy 2016 – 2020;**

Section 3.3.3 Design of Vehicular Access outlines the provisions of Appendix 5, Section 4.3.2 of the Dublin City Development Plan 2022 - 2028.

**Chapter 8 Sustainable Movement and Transport;** section 8.5.7 is applicable.

### **SMT25 On-Street Parking;**

*‘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.’*

### **Appendix 5, Section 4 Car Parking Standards;**

*‘Dimensions and Surfacing 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.’*

### **SMT22 Key Sustainable Transport Projects**

*‘To support the expeditious delivery of key sustainable transport projects so as to provide an integrated public transport network with efficient interchange between transport modes, serving the existing and future needs of the city and region and to support the integration of existing public transport infrastructure with other transport modes. In particular the following projects subject to environmental requirements and appropriate planning consents being obtained:*

- *DART +*
- *Metrolink from Charlemount to Swords*
- *BusConnects Core Bus Corridor projects*
- *Delivery of Luas to Finglas*
- *Progress and delivery of Luas to Poolbeg and Lucan’*

## **5.2. Natural Heritage Designations**

None

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

This is a first party appeal that has been submitted against the decision of Dublin City Council. The grounds of appeal can be summarised as follows:

- The planner has agreed with the rationale for the provision of in – curtilage car parking and that off street-car parking is preferable where possible.
- The planner has recommended in the event of planning permission being granted a condition should be attached requiring the entrance to be formed by the widening of the pedestrian entrance to no more than 3m and the pier should be relocated.

The appellant states that they are willing to comply with the recommendation of the planner and notes that a sketch proposal has been submitted with the appeal submission illustrating the recommended amendment for the consideration of the Board.

- The proposed development would not seriously injure the amenities of property in the vicinity as the majority of properties have parking installed below the 3.5m threshold proximity to mature trees.
- The appellant has stated that there is already considerable more impact on the tree root zone than the proposed works due to an existing telecommunications manhole in place.
- Reference has been made to cracking in the pavement that would likely need replacing and would require invasive interaction with tree roots.



- Concerns due to the large number of cars parked on the pavement that impedes mobility of pedestrians and poses unnecessary collision risk.
- The appellant is being unfairly disadvantaged by applying for authorisation for the driveway installation given the unauthorised driveways in existence within proximity to the appeal site that are 1m from street trees.

Reference has been made to the installation of a driveway at dwelling no. 385 with no observable impact on the trees.

## **6.2. Applicant Response**

None

## **6.3. Planning Authority Response**

None

## **6.4. Observations**

None

## **6.5. Further Responses**

None

## **7.0 Assessment**

7.1. I consider that the main issues in this appeal are as follows:

- Widening of Entrance
- Removal of Street Tree
- Precedent

## **7.2. Widening of Entrance**

Clogher road is a busy arterial route that connects Parnell Road with Sundrive Road. Informal car parking along the footpath was observed on day of site inspection. The Planning officer notes in their recommendation that in curtilage car parking would be preferable at this location.

Having examined the application site and all documentation submitted I am of the opinion that the widening of the entrance in this instance would be in the interests of traffic safety where informal car parking is to be lost to accommodate the permitted Tallaght/Clondalkin to City Centre BusConnect Core Bus Corridor Scheme. I concur with the Planning Officer that in curtilage car parking would be desirable at this location. I therefore consider the proposal to widen the entrance to be acceptable in principle subject to compliance with the relevant standards outlined within the Dublin City Development Plan 2022 – 2028.

### **7.3. Removal of Street Tree**

The Planning Authority refused planning permission for the widening of a vehicular entrance for off street-car parking for one reason. This reason had regard to Appendix 5 section 4.3.2 of the Dublin City Development plan which discourages the removal of street trees.

It was noted at site inspection that the current streetscape comprises numerous mature trees at regular intervals that visually enhance the streetscape at this location.

The Street tree the subject of this application is mature and healthy in nature and contributes to the visual character and biodiversity of this city streetscape.

Dublin City Councils report details the comments received from the Transport Planning Department who consulted with Dublin City Councils Parks and Wildlife Department as part of their assessment of the proposal.

The following comment from DCC Parks and Wildlife was included within the Transport Planning Departments report '*There is a large public street tree at the public path approximately at the line of the property boundaries of house numbers 335 & 337. The Development Plan requirements under 3.4.2 of Vol 2, require a 3.5m clearance from the tree trunk surface to the proposed dish for a vehicular entrance.*

*This is not possible given the 5m property width. As the proposals do not comply with the Development Plan policy Park services object to the application’.*

The appellant contends that the revised proposal submitted with the appeal documentation by way of an informal sketch illustrating a proposed buffer of 2.5m from the tree trunk to the proposed pavement dishing is sufficient to protect the tree.

I do note the appellants effort to increase the buffer from the pavement dishing to the street tree. I also note the requirement within Appendix 5 of DCC Development Plan including illustration Figure 1 (Street Trees and Entrances) for mature trees to have a minimum clearance of 3.5m from the surface of the tree trunk to the proposed edge of the dishing.

Given the nature of the existing street tree currently surrounded by a concrete pavement with no evidence of tree damage. I consider the proposed works required to provide for the widening of the entrance and dishing of the footpath can be accommodated at 2.5m buffer in this instance subject to an appropriate method statement prepared and carried out by a suitably qualified person clearly setting out any protection measures that would be required to ensure no damage to the tree roots.

I conclude in the interests of traffic safety and free flow of public transport on this busy arterial route where informal car parking spaces will be lost as a result of the permitted BusConnect Bus Corridor Scheme, that I am not in agreement with Dublin City Councils decision to refuse permission and therefore recommend that permission be granted in this instance.

#### **7.4. Precedent**

The grounds of the appeal states that there is precedent nearby where dwellings have widened the entrance and dished the pavement to allow for vehicular access in close proximity to trees without the benefit of planning permission. I am of the opinion that the subject appeal should be considered on its own merits and on a site-specific basis having regard to national and local policy and other relevant planning considerations.

## **8.0 AA Screening**

Having regard to the location of the appeal site and the nature and scale of the proposed development it is concluded that no appropriate assessment issues arise in this instance.

## **9.0 EIA Screening**

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

## **10.0 Recommendation**

I recommend that planning permission be granted

## **11.0 Reasons and Considerations**

The site is located on the permitted Tallaght/Clondalkin to City Centre Bus Connects Route, where public transportation will operate on a 24 hour basis. Currently there is a pattern of parking of private cars on the public footpath. It is considered that the provision of in-curtilage car parking represents an improvement in traffic safety, facilitates public transport and improve the convenience of pedestrians.

Having regard to the current condition of the tree, which has been surrounded by concrete, it is considered that the dishing of the footpath at this location will not seriously adversely affect the health of the tree. The proposed development would therefore be in the interest of the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on '17/05/24' except as may otherwise be required in order to comply with the following conditions. Where

such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed with the agreed particulars.

**Reason: In the interest of clarity**

2. The applicant shall liaise with the Planning Authority prior to commencement of the proposed development and ensure the proposed works will not impact on the permitted Tallaght/Clondalkin to City Centre BusConnect Core Bus Corridor Scheme PI. Ref: ABP 316828-23

**Reason: In the interests of traffic safety.**

3. The vehicular entrance shall be widened to no more than 3m. The details of the proposed entrance works shall be agreed in writing with the Planning Authority prior to the commencement of the development.

**Reason: In the interests of traffic safety**

4. A method statement carried out by a suitably qualified person for the dishing of the footpath shall be submitted to the Planning Authority for their written approval prior to commencement of the proposed works.

**Reason: In the interests of residential and visual amenity**

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services and no surface water from the proposed development shall be allowed to discharge onto adjoining properties or the public road.

**Reason: In the interest of public health**

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.

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Kathryn Hosey  
Planning Inspector

04<sup>th</sup> Day of November 2024

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>			
<b>Proposed Development Summary</b>	Permission to create a new vehicular access for off street parking.		
<b>Development Address</b>	335 Clogher Road, Crumlin, Dublin 12 D12 XT68		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	Tick if relevant and proceed to Q2.
		<b>✗</b>	
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	Tick/or leave blank	State the Class here and the relevant threshold set out in the Class for the proposed development.	EIA Mandatory EIAR required
<b>No</b>	Tick or leave blank	<b>✗</b>	Tick if relevant. No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
<b>No</b>	Tick/or leave blank		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
<b>No</b>	Tick/or leave blank	<b>Screening determination remains as above (Q1 to Q4)</b>
<b>Yes</b>	Tick/or leave blank	<b>Screening Determination required</b>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_