



An
Bord
Pleanála

Inspector's Report

ABP-320875-24

Development	Alterations to the front boundary of the house to facilitate vehicular access, dishing of the kerb and all associated site works		
Location	54 Broombridge Road, Dublin 7		
Planning Authority	Dublin City Council		
Register Ref. No.	WEB1625/24		
Applicant(s)	Dáire & Veronika O'Carroll		
Type of Application	Permission	PA Decision	Refuse Permission
Type of Appeal	First Party	Appellant	Dáire & Veronika O'Carroll
Observers	None		
Date of Site Inspection	7 th January 2025	Inspector	Michael Walsh

1.0 Context

1. Site Location / Description.

This area was originally developed during the mid-Twentieth Century as a local authority housing estate, comprising an extension to an earlier estate at Cabra and on the far side of the Heuston to Liffey Junction railway line. Broombridge Road links Faussagh Avenue with the railway and canal bridge at Broombridge station and is part of a through road leading to Ballyboggan road. The station is served by trains on the Maynooth and Sligo lines and also provides a terminus for the Luas Green Line.

Broombridge Road is a residential road with terraces of houses on both sides. These are two-storey houses modest in scale. They are generally set well back from the road frontage. The road is of sufficient width to permit kerbside parking but many of the houses have off-street parking spaces. Many of these spaces have dish pavements provided with them but others have concrete infills inserted at the edge of the footpath. This road is part of a new bus route (N2).

No.54 is typical of houses along this road and is a mid-terrace house. The house is raised above road level and there are three steps on the path leading to the hall door. The main part of the front garden is raised to a level close to ground floor level.

The footpath is shown to have a width of 2990 mm and structures / objects on it are shown on the Site Plans submitted. These include an Eircom pole, a telecommunications equipment box and the street tree on the path in front of No. 56. This tree has a roughly circular bed of clay approximately 1 metre in diameter. There is also a water meter beside the existing pedestrian entrance to No. 54. The portion of the path in front of No. 54 appears as if it has been re-laid in relatively recent years. Referring to the adjoining houses, Nos. 50 and 56 have no off-street spaces. Nos. 52 and 58 have such spaces but only No. 58 has a dish path.

2. Description of development.

The full description of this development is as follows:

Alterations to the front boundary of the house to facilitate vehicular access, dishing of the kerb and all associated site works.

The site area has been stated to be 232 m² and it has been pointed out that the applicants intend to create safe and secure access to their car with young children. It is noted that a number of other houses have carried out similar developments. The planning authority, in a request for further information, expressed concerns regarding the likely negative impact on a nearby street tree and sought the submission of revised plans providing for a 2.5 metre clearance from this tree. It was pointed out in a detailed response that the entrance gate was reduced to a clear width of 2.5m and relocated to the extreme left of the property, to move it as far from the tree as possible. Regarding the request to provide a further 0.8m clearance as an additional buffer zone for dishing of the kerb, it was suggested that this would be unnecessary due to the size and nature of the houses, considering the overall width of the street (14.8m). It was noted that there are other instances along this street where entrances and dished kerbs have been provided far closer to street trees with no apparent effect on the health of the trees.

3. Planning History

No information has been made available on any previous planning history relating to this property.

4. Local Planning Policy

The current development plan for the area of the planning authority is the Dublin City Development Plan 2022-2028. This plan came into effect on 14.12.2022. The zoning objective applicable to this site is Z1 – Sustainable Residential Neighbourhoods. This objective is expressed as, *to protect, provide and improve residential amenities*.

5. Natural Heritage Designations

The site of the proposed development is located in a largely built-up inner suburban area. It is located well clear of any natural heritage area, special protection area or special area of conservation.

Development, Decision and Grounds of Appeal

6. Planning Authority Decision.

The planning authority decided to refuse permission for the proposed development for the following reason:

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 at 2.5 metres 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 cause serious injury to the residential amenities of the area. The development would set an undesirable precedent and would, therefore, be contrary to the proper planning and sustainable development of the area.

Referring to the reports on which this decision was based, the report of the Parks, Biodiversity & Landscape Services objected on the basis that the proposed entrance dishing would be contrary to the Development Plan requirement of 2.5 m clearance from an existing street tree.

The report of the Engineering Department – Drainage Division sought compliance with the Code of Practice for Drainage Works and use of Sustainable Drainage Systems.

The Transportation Planning Division noted that, with the additional clearance required for dishing of the footpath, the clearance to the tree would be 1.7m, which would not be adequate to protect the tree roots. and recommended refusal.

The final report of the Planning & Development Department noted that, based on confirmation from the Parks, Biodiversity & Landscape Services Division, the appropriate clearance could not be achieved to protect the tree roots, that the overcoming of this would result in a substandard entrance and that permission should therefore be refused.

7. First Party Appeal

The substance of the grounds is as follows.

- It can be demonstrated that the benefits of providing the vehicular entrance, to both the family and the neighbourhood, would far outweigh the marginal

additional risk of damage to the tree.

- The primary motivation of the appellants is the safety of their family. They are concerned about the high volumes of traffic on this road, making the area unsafe for children, a consideration based on incidents of traffic passing by within centimetres of their open car door.
- The appellants are concerned about the capacity of the road to handle the existing high traffic volumes, having regard to residents and commuters parking on the street. Current efforts at traffic management are stated to be largely ineffective and traffic on the road is poised to increase with the new N2 bus route.
- Having a parking space on the property would allow the installation of an electric vehicle charger in a situation where charging cables cannot be run across a public footpath.
- Regarding the objections of the Council's Parks & Biodiversity Services Department, many sections of the footpath in this vicinity have been replaced several times in recent years with no apparent damage to the trees, smaller buffers between trees and entrances have been accepted by the Planning Department and the majority of houses on Broombridge Road (97 out of approximately 130) have off-street parking spaces.
- It has been demonstrated that a 2.5m buffer could be provided but not the additional 80cm splay sought but the appellants would be amenable to having a reduced dishing splay as has been done in the case of WEB1959/22 in order to lessen the impact on the tree.
- It is submitted that the grounds for refusal were poorly founded and that the appellants would be willing to accommodate concerns regarding the tree to a degree accepted by the Planning Office in other cases. It is queried why a marginal / once-off risk to the root network of a tree was prioritised over an ongoing risk to the safety of children.

The grounds are accompanied by a set of photographs of entrances and driveways in the vicinity and some details of permissions recently granted for driveways in front gardens in the general Cabra area.

8. Planning Authority Response

No response has been received from the Planning Authority.

9. Observations

No observations have been received in relation to this appeal.

Environmental Screening

10. Environmental Impact Assessment Screening

Having regard to the limited nature and scale of the development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

11. Appropriate Assessment Screening

Having regard to the modest nature and scale of development, its location in a built-up urban area and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

2.0 Assessment

- 2.1 The primary issue in this case is the likely impact of the proposed development on the health of a tree located on the public footpath close to the property. This issue is the substance of the reason given for the decision to refuse permission for the development. It is stated in the reason that the development would consequently be contrary to Section 15.6.10 of the current Dublin City Development Plan, cause serious injury to the amenities of the area and set an undesirable precedent. It is also reasonable to have regard to the context of the provision of an off-street parking space being provided in the front garden of the property in question.
- 2.2 The background to this development is that Broombridge Road is a core road in a substantial local authority housing estate built in the mid-Twentieth Century. The houses are mainly two-storey terraced houses. The footpaths are wide and there are

trees on the street frontage. This road leads to Broombridge Station and Luas stop and has a function as a through route. Many of the houses on this road have off-street parking spaces in their front gardens. It can be inferred that this housing estate provides a good quality residential environment.

2.3 No.54, the house involved in this appeal, is a mid-terrace house and is typical of houses on this road. Its ground floor is raised above road level. There is currently no vehicular access. There is sufficient space available to provide a drive-in; the associated vehicle movements would not be impeded by the existing tree in front of the adjoining house (No.56). It has been stressed in the appeal that the appellants have a baby. In this regard the proposed driveway would enable them to put the baby into and taken out of the car in safety and well in off the road, which is stated to be a busy through route. This clearly would be a tangible benefit to the appellants. A further convenience, which could arise in the future, is that the battery of an electric car could be recharged in the driveway.

2.4 As noted above, many houses on Broombridge Road have off-street parking spaces in their front gardens. The building line setbacks are such as to facilitate the provision of these spaces. At the same time many houses do not have such spaces and kerbside parking spaces are freely available. Some of the off-street spaces appear to have been in existence for some time, while others appear to be of relatively recent construction. It is not practicable to determine how many of these spaces have got planning permission but the standards of construction clearly vary. Some have been constructed to good standards with neatly finished dishing, while others are crudely finished with concrete inserts on the edge of the road to facilitate smoother vehicle movements. I infer in this situation that the planning authority are disposed to accept the provision of off-street parking spaces in front gardens on Broombridge Road, subject to consideration of the respective details and any likely effects on street trees.

2.5 That leads to consideration of the likely effect of this development on the street tree in front of the adjoining house (No. 56), this being the basis of the reason given for the decision to refuse permission for this development. The position of the planning authority is that conflicts with street trees should be avoided and, where there would be an impact on trees in the public realm, that a revised design is needed to avoid such conflicts (Section 15.6.10 of the Development Plan). Figure 1 attached to

Section 4.3.2 of Appendix 5 of the Development Plan provides for a clearance of at least 2.5 metres from the surface of the tree trunk in the case of a medium tree. The clearance of 1.75 metres shown on the Site Plan submitted with the application clearly fell short of this requirement.

- 2.6 The planning authority, arising from this, sought the submission of revised drawings of the entrance to achieve a clearance of 2.5 metres from the tree. The Revised Site Plan provided for the relocation and narrowing of the entrance, such that the spacing of the driveway from the tree was increased from 1.75 metres to 2.5 metres. This spacing was indicated as complying with the planning authority's requirements. The revised layout does not have significant implications for pedestrian access to the house; such access would be over the proposed driveway and then up steps to the hall door.
- 2.7 The final report of the Planning Department noted the details of the revised drawings, including the clearance of 2.5 metres from the tree, but identified a shortcoming in the details of the dishing. The generalised layouts shown in Figure 1 of Section 4.3.2 of Appendix 5 of the Development Plan provide for the dishing to be splayed out close to the edge of the footpath. I infer that the purpose of this is to ensure that passing pedestrians do not experience an unexpected sharp break in the levels of the public footpath beside the sloping portion of the driveway. Strict compliance with the layout of Figure 1 for a medium tree, with provision for the additional dishing, effectively reduces the clearance from the tree to a figure of 1.7 metres.
- 2.8 The revised site plan shows the driveway extending straight out from the proposed entrance. It is submitted in the grounds of appeal that the appellants would be amenable to having a reduced dishing splay, similar to that permitted in the Dowth Avenue case (WEB1959/22); this would greatly reduce any intrusion into the buffer zone of the tree. Some details of the above case and of two other similar cases in the Cabra area have been appended to the grounds of appeal. The Board are not in a position to review these cases with a view to determining whether they were constructed exactly in accordance with the respective permissions. I would observe however that, in two of these cases, the dished driveways seem to be quite close to street trees. I would add, in relation to the pattern of driveways in the area and to the above cases, that this proposal would scarcely set any precedent.

- 2.9 A further point made in the grounds is that sections of the footpath close to the tree in question have been replaced several times in recent years for reasons including replacement of water pipes, maintenance of telecommunications infrastructure and repairs to the footpath. It is reasonable to infer that works of this nature are undertaken on a regular basis and undertaken with proper degrees of care taken with possible effects on trees. It is noted that several sections of newly constructed footpaths can be observed along Broombridge Road. In this context it might be noted that the proposed driveway could be seen as one of many risk factors to the roots of the tree from works of this nature regularly taking place on the footpath.
- 2.10 The reason given for the decision to refuse permission for this development is based on the probable impact of the dishing associated with the development on the root zone of the nearby tree. The street trees on this road contribute to the environmental quality of the area and Section 15.6.10 of the City Development Plan deals with the impacts of proposals on trees within the public realm. At the same time this road is in an area having the Z1 Zoning Objective (Sustainable Residential Neighbourhoods). Given that this objective includes the aim *to protect, provide and improve residential amenities*, it is necessary to have regard to the tangible benefits to the occupants of this house, in terms of personal safety and convenience, arising from the availability of an off-street parking space.
- 2.11 It is necessary in this case to balance these benefits with the possibility of damage to the health of the nearby street tree. In this regard the assessment of intrusion of the dishing into the root zone is based on what appears to be a rigid interpretation of the manner in which the details of Figure 1 of Section 4.3.2 of Appendix 5 of the Development Plan should be applied to any particular case. A more appropriate approach might be to take these details as an illustration of how a driveway of this type could be laid out rather than as a pre-determined format to be strictly complied with in all circumstances.

3.0 Recommendation

Arising from the above assessment I recommend that permission be granted for the proposed development (described as *Alterations to the front boundary of the house to facilitate vehicular access, dishing of the kerb and all associated site works*) on the basis of the Reasons and Considerations set out in Section 4.0 of this report and subject to compliance with the Conditions set out in Section 5.0 of this report.

4.0 Reasons & Considerations

Having regard to the contribution of this development to the amenities of the subject property and to the safety of its occupants, to its consistency with the pattern of development in the area and to the measures proposed to protect the nearby street tree, it is considered that this development, subject to compliance with the conditions set out below, would be unlikely to have a material effect on the health of this tree, would not contravene the relevant policies of the Dublin City Development Plan 2022-2028, would not give rise to injury to the amenities of the area, would not set an undesirable precedent and would therefore be consistent with the proper planning and sustainable development of the area.

5.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 7th day of August 2024], 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 in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
----	---

2.	<p>The layout of the entrance shall be in accordance with the details set out on the drawing described as Proposed Site Plan (Revised) submitted on the 7th day of August 2024 and shall not encroach any closer than 2.5 metres to the roadside tree in front of No. 56 Broombridge Road.</p> <p>Reason: In the interest of personal safety and to avoid damage to the root system of the tree referred to..</p>
3.	<p>The developer shall comply with the requirements set out in the Codes of Practice from the Drainage Division, the Transportation Planning Division and the Noise & Air Pollution Section. In particular, any new paving shall be carried out in a sustainable manner so that there is no increase in surface water run-off to the drainage network.</p> <p>Reason: To ensure a satisfactory standard of development.</p>
4.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall, inter alia, include the following requirements.</p> <ul style="list-style-type: none"> (i) Details of the limitations on the hours of operation. (ii) Details of all necessary measures to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads and the steps to be taken to remove any such spillage or deposit at the applicant's/developer's expense. <p>Reason: to protect the amenities of the area.</p>
5.	<p>During the construction and demolition phases, the proposed development shall comply with British Standard 5228 "Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control."</p> <p>Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.</p>

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.

Michael Walsh
Planning Inspector

Date: 29th January 2025