

An
Bord
Pleanála

Inspector's Report ABP321049-24

Development	Protected Structure: the provision of new vehicular access and off-street parking, including modifications to plinth wall, wrought iron railings and landscaping.
Location	40 Lesson Park, Dublin 6, D06H6K1.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	4066/24.
Applicant(s)	Luán O'Braonáin & Caoimhe Daly.
Type of Application	Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party
Appellant(s)	Luán O'Braonáin & Caoimhe Daly.
Observer(s)	(1) Mr. Philip O'Reilly.
Date of Site Inspection	17/02/2025.
Inspector	Anthony Abbott King.

1.0 Site Location and Description

- 1.1. No. 40 Lesson Park is a three-storey, semi-detached dwelling located on the east side of the street. No. 40 Lesson Park and the adjoining houses in the streetscape including the abutting house at no. 39 Lesson Park are protected structures.
- 1.2. The housing stock on Lesson Park predominantly comprises substantial two-storey over raised basement semi-detached Victorian houses circa.1860. The residential plots accommodating these properties are substantial.
- 1.3. The front gardens on this section of the Lesson Park are demarcated at the street edge by wrought iron railings raised on stone plinths.
- 1.4. No. 40 Lesson Park is the subject of renovation works at present. There is a hoarding elevating directly onto Lesson Park screening the front and side boundary.
- 1.5. The property has an intact stone plinth to the street with the exception of a vehicular sized opening almost centrally punctured in the front boundary plinth. The railings above the boundary are invisible behind the hoarding.
- 1.6. There is a clearly demarcated parking bay on street extending for the full width of the frontage onto Lesson Park.
- 1.7. A pay & display and residents permit parking scheme is in operation on Lesson Park (Monday-Friday 08.00-18.30).
- 1.8. A large number of properties on Lesson Park have in-curtilage car parking in their front gardens including the adjoining properties in the streetscape.
- 1.9. Site area is given as 576 sqm.

2.0 Proposed Development

- 2.1. The proposed development comprises the following works to a protected structure:
The provision of new vehicular access and off-street parking, including modifications to plinth wall, wrought iron railings and landscaping.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following reasons:

- (1) *The removal of an on-street car parking space to accommodate a private vehicular access is contrary to the Dublin City Council policy and would reduce the supply of on-street car parking available to residents on the street. The proposal would therefore be contrary to Policy SMT25, Section 8.5.7 and Appendix 5, Section 4.1 of the Dublin City Development Plan 2022-2028, 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 reduced supply of on-street parking would detract from the convenience of road users and the residential amenity of surrounding properties. The proposal would set an undesirable precedent for similar type development and would be contrary to the proper planning and sustainable development of the area.*
- (2) *Having regard to the Z2 residential conservation zoning objective and the Protected Status of the house, the proposed modification of the extant historic railings and stone plinth and associated works would have a seriously injurious impact on the special character of the Protected Structure, its setting and wider streetscape, and as such would be contrary to Policy BHA2 which seeks to ensure development conserves and enhances Protected Structures and their curtilage and Policy BHA9 of the City Development Plan 2022-2028 which seeks to protect the special interest and character of Dublin's Conservation Areas. The proposed development is therefore considered 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 following internal reports are relevant to the planning assessment:

- 3.2.3. Transport Planning Division recommend the refusal of planning permission. The Division note that the proposed vehicular entrance would be 3.3m in width, which exceeds the maximum development plan standard.

Furthermore, the proposed vehicular entrance is located 1.9m from the adjacent street tree to the north. It is considered that the vehicular entrance and dishing at 1.0m buffer would encroach on the minimum clearance distance to the street tree having regard to the size of the tree and the 0.9m dishing of the footpath / kerb required either side of the vehicular entrance – potentially resulting in the loss of the street tree which would be contrary to development plan policy. The relocation of the vehicular access may be possible to reduce the impact on the street tree.

The proposed vehicular access is contrary to Policy SMT25 and should be refused on that basis.

- 3.2.4. The conservation officer recommends refusal of planning permission by reason of serious injury to the architectural character of both the streetscape and the setting of the protected structure. The works would give rise to the loss of original historic fabric and character. The proposal would contravene Policy BHA2 of the Dublin City Development Plan 2022-2028 and Section 16.10.18 & 13.4.3 of the Architectural Heritage Protection Guidelines 2011.

In the opinion of the conservation officer, as set out in Section 13.4.4 of the Architectural Heritage Protection Guidelines “*the cumulative effect on the character of the street or area of a series of incremental changes may not be acceptable*”.

In the instance the planning authority supported the development mitigation measures could be considered, including the reuse the extant original railings in the design of the vehicular access gates.

4.0 Planning History

The following planning history is relevant.

Under Reg. Ref: 4542/23 planning permission was granted (14th May 2024) for works to the protected structure at no. 40 Lesson Park comprising the conversion of

3 no. flats back into a single family dwelling to include internal refurbishment works and external repair & restoration works to the granite entrance steps including the addition of a step at base and associated site and drainage works.

Condition 2 states in the matter of proposed works to the protected structure:

The applicant/developer shall comply with the following requirements of the Conservation Officer of Dublin City Council; a) A conservation expert with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works and to ensure adequate protection of the retained and historic fabric during the works. All permitted works shall be designed to cause minimum interference to the retained fabric and the curtilage of the Protected Structure. b) The following detailed schedules shall be agreed on site with the Conservation Officer and further to the preparation of site exemplars as necessary: Masonry cleaning, raking of cementitious pointing, brick repairs, wig pointing, and render sample. i) The external stack pipe shall be black-painted cast-iron. ii) Drawings at 1:10 of the lower steps and end of balustrades of the external entrance flight of steps to show existing and proposed additional granite step shall be submitted for agreement with the Conservation Officer prior to the commencement of construction on site. The new step shall be Leinster granite. c) All works to the structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of Housing, Local Government and Heritage. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement. d) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works. All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.

Reason: *In order to protect the original fabric, character and integrity of the Protected Structure at 40 Leeson Park and to ensure that the proposed works are carried out in accordance with best conservation practice.*

5.0 Policy and Context

5.1. Development Plan

The relevant land-use zoning objective of the Dublin City Development Plan 2022-2028 is Z2 (Residential Conservation) (Map E): *To protect and/or improve the amenities of residential conservation areas.*

- **Residential Conservation Areas**

The rationale for residential conservation area designation is that the overall quality of an area in design and layout terms is such that it requires special care in dealing with development proposals, which would affect structures both protected and non-protected in such areas. The objective is to protect conservation areas from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area. In this regard development standards in conservation areas, Chapter 15 (Development Standards) of the Dublin City Development Plan 2022-2028 states:

All planning applications for development in Conservation Areas shall:

- *Respect the existing setting and character of the surrounding area.*
- *Be cognisant and/or complementary to the existing scale, building height and massing of the surrounding context.*
- *Protect the amenities of the surrounding properties and spaces.*
- *Provide for an assessment of the visual impact of the development in the surrounding context.*
- *Ensure materials and finishes are in keeping with the existing built environment.*
- *Positively contribute to the existing streetscape. Retain historic trees also as these all add to the special character of an ACA, where they exist.*

Policy BHA9, Chapter 11 (Archaeology & Built Heritage), Dublin City Development Plan 2022-2028 *inter alia* states:

Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Enhancement opportunities may include:

- Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.*
- Re-instatement of missing architectural detail or important features.*
- Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns*
- Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.*
- The repair and retention of shop and pub fronts of architectural interest.*
- Retention of buildings and features that contribute to the overall character and integrity of the conservation area.*
- The return of buildings to residential use.*

- Protected Structures**

Policy BHA2, Chapter 11 of the Plan states in the matter of the development of protected structures:

That development will conserve and enhance protected structures and their curtilage and will:

- (a) Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities (2011) published by the Department of Culture, Heritage and the Gaeltacht.*
- (b) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.*
- (c) Ensure that works are carried out in line with best conservation practice as advised by a suitably qualified person with expertise in architectural conservation.*

- (d) *Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.*
- (e) *Ensure that the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does not adversely impact the curtilage or the special character of the protected structure.*
- (f) *Respect the historic fabric and the special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.*
- (g) *Ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the protected structure.*
- (h) *Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.*
- (i) *Ensure historic landscapes, gardens, and trees (in good condition) associated with protected structures are protected from inappropriate development.*
- (j) *Have regard to ecological considerations for example, protection of species such as bats.*

- **Sustainable Mobility and Transport**

Chapter 8 (Sustainable Movement and Transport) Section 8.5.7 (car parking) is relevant, which provides for strong car parking policy implementation in Dublin city, and Policy Objective SMT25 stating 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.

- **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, including the following provisions:

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

There will be a presumption against the removal of on-street parking spaces to facilitate the provision of vehicular entrances to single dwellings in predominantly residential areas where residents are largely reliant on on-street car-parking spaces or where there is a demand for public parking serving other uses in the area.

Section 4.3 (Parking in Front Gardens), which *inter alia* states:

Panning Permission is required for the alteration of a front garden in order to provide car parking by creating a new access, or by widening of an existing access. Proposals for off- street parking in the front gardens of single dwellings in mainly residential areas may not be permitted where residents rely on on-street car parking and there is a strong demand for such parking.

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

Vehicular entrances shall be designed to avoid creation of a traffic hazard for passing traffic and conflict with pedestrians. Where a new entrance onto a public road is proposed, the Council will have regard to the road and footway layout, the impact on on-street parking provision (formal or informal), the traffic conditions on the road and available sightlines.

For a single residential dwelling, the vehicular opening proposed shall be at least 2.5 metres or at most 3 metres in width and shall not have outward opening gates. Where a shared entrance for two residential dwellings is proposed, this width may increase to a maximum of 4 metres.

Detailed requirements for parking in the curtilage of Protected Structures and in Architectural Conservation and Conservation Areas are set out in Appendix 5, Section 4.3.7.

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 which meet a list of performance criteria. The following *inter alia* criteria are relevant to the assessment of the development proposal:

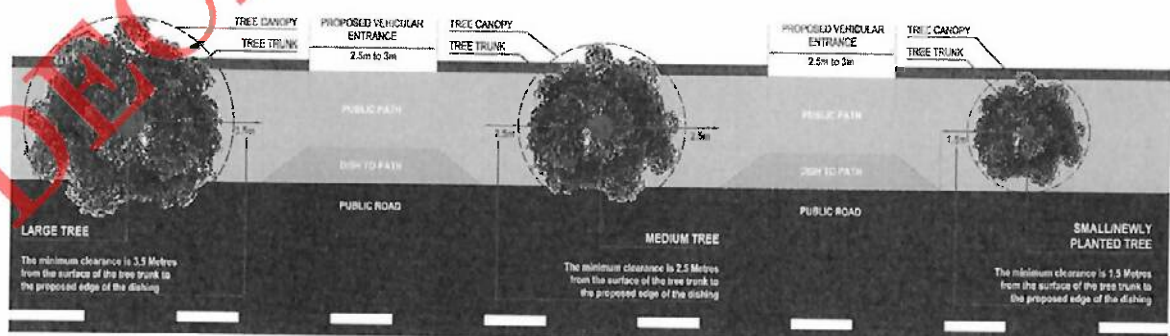
- *A high standard of design and layout will be expected to integrate the proposal into the sensitive context, the use of natural materials that would complement the special character of the Protected Structure i.e. gravels, granite etc.;*
- *The retention of most of the original boundary wall and/or railings and plinth wall and the re-use of the removed railings for new access gates will be sought;*
- *Works which would involve the loss of mature and specimen trees (those in good condition) which contribute to the character of a protected structure or conservation area, both within the private and public domain, will be discouraged;*
- *Every reasonable effort is made to protect the integrity of the protected structure and/or conservation area;*
- *Access to and egress from the proposed parking space will not give rise to a traffic hazard;*
- *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, exclusive of car parking area, footpaths and hard surfacing. SuDs features should be incorporated as appropriate (see also Appendix 12);*
- *Car parking shall be designed so that it is set-back from the house and front boundary wall to avoid excessive impact on the protected structure;*
- *Car parking bays shall be no greater than 5 m x 3 m metres wide;*
- *The proposed vehicular entrance should, where possible, be combined with the existing pedestrian entrance so as to form an entrance no greater than 2.6*

m and this combined entrance should be no greater than half the total width of the garden at the road boundary.....;

- Where cast or wrought iron or other historic railings exist and historic brick and stone boundary walls, which contribute to the special character of the structure, every effort will be made to preserve and to maintain the maximum amount of original form and construction through minimum intervention. Any original existing gates, piers and cast iron or other railings that require alterations shall be reused and integrated with all new parking proposal.....;

Furthermore, Appendix 5, Section 4.3.2 (Impact on Street Trees) states: In all cases, the proposed vehicular entrance shall not interfere with any street trees. Proposals to provide a new entrance or widen an existing vehicular entrance that would result in the removal of, or damage to, a street tree will not generally be permitted and where permitted in exceptional circumstances, must be mitigated. Where a street tree is located in close proximity to a vehicular entrance, protective measures shall be implemented during construction to safeguard against any damage caused and a financial security required to cover any damage caused..... The extent of the associated dishing of the footpath and kerb for a vehicular entrance shall not negatively impact on existing street trees and tree root zone. A minimum clearance will be required from the surface of the tree trunk to the proposed edge of the dishing. Figure 1 illustrates the various minimum clearance distances required, based on the maturity of the street tree.

- **Figure 1: Street Trees and Vehicular Entrances**



Architectural Heritage Protection Guidelines for Planning Authorities (2011)

published by the Department of Culture, Heritage and the Gaeltacht are relevant.

5.2. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal, prepared by Thornton O'Connor Town Planning, on behalf of the appellant are summarised below:

- In association with Thornton O'Connor, DMVF Architects, Slattery Conservation Architects and the Tree File have all been retained by the appellant to prepare this appeal submission.
- The application submitted to the planning authority provided a rationale for the appellants genuine need for in-curtilage parking at their family home at No. 40 Lesson Park and this appeal statement further demonstrates the appellants clear and apparent need for off street parking.
- The appellant considers the development as originally lodged entirely appropriate in this core urban area. However, the multi-disciplinary team have prepared an 'option B' for the Board, which would modify the width of the vehicular entrance in order to protect the adjacent street tree and to ensure the employment of the most appropriate conservation strategy.
- The appellant is willing to accept a condition that would mandate Option B modifications illustrated on Drawing Nos. PL02C & PL03C, as submitted with the appeal statement.

Family residence and appellants car parking requirements

- The appellants intention was to purchase the subject property as a long term family residence carrying out all necessary refurbishment works in accordance with best conservation practice.
- Planning permission was granted for the conversion of 3 residential units back into a single dwelling under register reference 4542/23. The appellants are

currently refurbishing / restoring the subject dwelling representing a clear conservation gain for the Victorian house.

- The proposal for in-curtilage car parking is critical to provide the appellants with a convenient safe and reliable space to park their car including loading and unloading and facilitating young children.
- The appellants assumed on the purchase of their house that off-street parking would be acceptable to the planning authority as a phase 2 development given that the vast majority of properties on Lesson Park benefit from in-curtilage parking.

Family disability justification

- The parents of the appellants undertake childcare duties when both appellants are at work. However, the mother and father of one of the appellants are disabled and mobility impaired with one parent wheelchair bound for the past 15 years.
- The appellants have created a universally accessible home with platform internal lift, accessible bedroom and a ramp to the front garden. The intention is that the disabled parents of the appellant would reside in the property in the future.
- The existing on-street parking arrangements are inadequate and inaccessible for the appellant's parents because of disability. The closest accessible parking bay is distantly located outside nos. 26 & 27 Leeson Park.
- It is claimed after consulting the Dublin City Council website an accessible parking bay cannot be facilitated along Lesson Park to cater for the appellant's parents. They are not permanent occupiers of the house and are not entitled to a residents parking permit. Furthermore, the appellants have two cars which precludes an application for an accessible bay.
- Visitor parking permits are only offered for a strict number of days out of the year. Furthermore, to accommodate an accessible space outside no. 40 Lesson Park would require the removal of two standard car parking spaces.
- The provision of an accessible bay with standard dimensions (7m) on Lesson Park would not accommodate the type of mobility vehicle used by the

appellant's parents, which requires a parking bay with a minimum length of 7.6m. The standard accessible bay would be unsafe in terms of access / egress from their vehicle (images included in appeal statement).

- The appellants claim that in order to provide safe egress / access generally and from their parent's vehicle the most suitable option is to facilitate a parking space within the curtilage of no. 40 Lesson Park.

The provision of off-street parking and on-street parking availability

- The development plan does not contain a blanket prohibition on the removal of on-street parking.
- The appellants claim that the removal of a single on-street car parking space is acceptable in principle and will not cause a detrimental impact on the supply of car parking in the area referencing Section 8.5.7, Policy SMT25 (On Street Parking) and Appendix 5 Section 4.1 & 4.3 of the development plan.
- The appellants emphasise that the development plan recognises that the transport needs of people of all ages and families living within the City must be catered for as provided for in Section 8.5.7 of the Plan arguing that the conversion of the protected structure at no. 40 Lesson Park to family use should be supported by a dedicated bespoke off-street parking provision.
- The appellant claims that the appeal statement demonstrates that Lesson Park is not a road whereby residents are largely reliant on on-street car parking as the vast majority of houses on the street have in-curtilage parking.
- Thornton O'Connor have carried out a desktop on-street car parking study (using Google Maps) on Lesson Park claiming that 100 on-street spaces are available and evidence that the vast majority of properties (92.6 %) on the street have in-curtilage parking (see Table 2.1).
- It is noted the individual properties are colour coded (where a green dot indicates in-curtilage parking on Lesson Park) in the aerial view images within the appeal statement, which illustrate private parking availability and location.
- The churches, nursing home, embassy, office(s) and majority of residential uses on Lesson Park provide private in-curtilage car parking. It is claimed only 5 properties are not provided with in-curtilage parking. Therefore, the use of

on-street parking is generally restricted to residents without in-curtilage parking and their visitors.

Planning precedent

- There is planning precedent for new vehicular entrances along Lesson Park including planning permission granted for off-street parking at nos. 52 (Reg. Ref: 4026/20), 16 (Reg. Ref:3446/15), 37 (Reg. ref: 3766/13) and 57 (Reg. Ref: 3629/11) Lesson Park. The cited examples comprised protected structures and resulted in the loss of on-street parking.
- It is acknowledged that the permissions were granted in accordance with preceding development plans. However, there is no material change in relevant policy in the current development plan.
- Furthermore, the planning authority assessed and determined that permission should be granted given that there would be no material impact on the character of the protected structure or the conservation area.
- The appellant notes that the planning case officer failed to include a grant of planning permission at no. 52 Lesson Park in the planning assessment report. Rather a split decision granted under Reg. Ref: 2515/20 was cited.
- The proposal under Option B submitted with the appeal would provide for a smaller vehicular access than the authorised opening at no. 52 Lesson Park requiring less intervention to the existing historic iron wrought railings.
- The grant of permission for off-street parking at no. 52 Lesson Park under Reg. Ref: 4026/20 noted that a new vehicular access to serve a family home was acceptable and that the loss of one on-street space was also acceptable given the availability of on-street parking.
- No. 53 Terenure Road East (3100/23), a protected structure, is cited as an application assessed and granted permission under the current development plan for the removal of the existing pedestrian gate and partial boundary to facilitate a new vehicular entrance and parking.
- The planning assessment at No. 53 Terenure Road East is not available on-line. However, it is noted that the vehicular entrance was reduced by way of condition to 2.6m width. Furthermore, it is evident in the submitted site layout

that almost the entire of the front garden of the protected structure is hardstanding with little soft landscaping.

Fundamentally disagree with the first reason for refusal

- The first reason for refusal, which *inter alia* states that the proposal would set an undesirable precedent, is contentious as a similar type of development in-curtilage parking is extant at all but 5 properties on Lesson Park.
- The appellants fundamentally disagree with the first reason for refusal. It has been demonstrated that 93% of properties on Lesson Park benefit from off-street parking. It is claimed the proposal cannot set a precedent for something that is already established at Lesson Park.
- It is argued that the provision of off-street parking will free two on-street parking spaces as the appellants will park both of their cars in-curtilage resulting in a net loss of one space. Furthermore, the property was previously divided into 3 residential units requiring a greater car park provision on street.

The second reason for refusal

- The new vehicular entrance will not cause a significant impact on the special architectural character of the protected structure at no. 40 Lesson Park. The proposal would be consistent with Appendix 5, Section 4.3.1 (Dimensions & Surfacing) & Section 4.3.7 (car parking in the curtilage of protected structures, Architectural Conservation Areas, and Conservation Areas) of the Dublin City Development Plan 2022-2028.
- The appeal statement is accompanied by a conservation report prepared by David Slattery Conservation Architect (October 2024). The conservation report assesses the potential impact of the proposed works on the protected structure and on the designated conservation area within which No. 40 Lesson park is located.
- The conservation report concludes that the proposed works would have a minimal impact on the character of the house at no. 40 Lesson Park and will enhance the front boundary. Therefore, the works would be consistent with Policy BHA2 (Development of Protected Structures) and Policy BHA9 (Conservation Areas) of the Dublin City Development Plan 2022-2028.

Impact on street trees

- The development would be consistent with Section 4.3.2 (street trees) of the development plan as detailed in the Arboricultural Technical Note prepared by The Tree File accompanying the appeal statement.
- The street tree to the north of the purposed footpath dishing is a relatively small and young Turkish Hazel and would require a minimum separation distance of 2.5m from the tree trunk to the dish area (medium sized street trees). Option A submitted to the planning authority provided 1.9m separation distance.
- The street tree to the south is an early mature red oak and would require a minimum separation distance of 3.5m from the tree trunk to the dish area. The planning case officer may have misunderstood the Transport Planning Division (TPD) report as the TPD only raised concerns in the matter of the northern street tree.
- The appellant has increased the distance between the edge of the northern tree trunk and the dishing area to 2.6m surpassing the recommendation of the TPD, as provided for in Option B.
- The appellants have reduced the overall width of the vehicular entrance from 3.2m to 2.7m. The distance between the southern tree trunk and the dishing area is reduced from 4.5m to 3.93m, which is still within the requirement for larger trees.

6.2. Applicant Response

N/A first party appeal.

6.3. Planning Authority Response

The planning authority request the Board to uphold the decision to refuse planning permission.

6.4. Observations

The following is a summary of the observation of Mr. Philip O'Reilly:

- The planning authority and An Bord Pleanála have a history (15 years under 3 or 4 development plans) of refusing front garden vehicular access and in-curtilage parking within Z1 and Z2 lands (from Sandymount to Terenure): 'there is a presumption against the permitting of off street parking which will give rise to a loss of on-street parking for the benefit of the greater good'.
- Lesson Park is a road of substantial houses a number of them are in commercial or other uses. As for the majority of houses having off-street parking the argument has been aired previous unsuccessfully.
- The existing off-street parking on Lesson Park is in situ for decades and in instances pre-dates the 1963 planning acts. The existing in-curtilage parking does not represent precedent for the current proposal as has been demonstrated on Belgrave Square.
- The observer cites a planning refusal at Belgrave Square and attaches the assessment of the Board inspector (DCC Reg. Ref: 679/17) (ABPPL29S.248801). The inspector notes that each case must be considered on its merits.
- The proposal is justified along the lines of the refurbishment of a Victorian protected structure and the critical requirement for off-street parking similar to an application by Davis Wall at no. 18 Lansdowne Road. No. 40 Lesson Park is part of a terrace and off-street parking for two large cars would mean the loss of the bulk of the front garden.
- The observer notes that the car parking status of No. 40 Lesson Park was transparent at time of purchase. The appellants could have purchased a property with extant off-street parking and other critical requirements listed in the appeal.
- The observer attaches a refusal from 11 years ago at no. 59 Grosvenor Road, Rathmines where justification based on the applicants children's needs was also quoted.
- The observer references an instance on Lower Rathmines Road in recent years where a refusal was recorded for a disabled parking space in the front garden.

- The key point is that a disabled on-street parking bay is feasible and this was demonstrated in the matter of the appeal at no. 59 Grosvenor Road. The same scenario would apply in the instance of the appellant if a case for an on-street disabled space is made to the planning authority.
- In the matter of option B, the proposal will still result in the loss of an on-street parking space within a street environment of high demand for parking given that other buildings in Lesson Park are in commercial and or multiple use including the adjoining creche at no. 39 Lesson Park, embassies and a nursing home.
- The private parking in the environs of Molyneux House (now in 10 apartments) together with new houses recently constructed is inadequate creating an overspill onto the public road.
- Appendix 5, Section 4.1 & 4.3 of the development plan emphasise the need to preserve the existing stock of on-street parking recognising the need to accommodate other users in predominantly residential areas such as Lesson Park.
- Section 8.5.7 of the development plan recognises the need for on-street parking for communities and permit or paid parking controls prioritising limited availability for residents.
- Policy SMT 25 likewise promotes organised on-street parking and enhancement of the urban environment. However, it is not possible to make provisions for every scenario, including marginal scenarios which cannot always be accommodated at reasonable and logical cost, for example, the scenario of the vehicle of the appellant's parents (shown in photographs).
- A large house on the south side of Northbrook Road just around the corner from no. 40 Lesson Park was refused permission for off-street parking similar to hundreds of other such applications in recent years.
- There is nothing positive in the matter of the off-street parking granted permission on Lesson Park such developments have degraded the character and setting of the area and resulted in the loss of historic fabric in the form of original railings, plinths and pedestrian gates.

- The number of houses with off-street parking on Lesson Park does not justify the erosion of on-street car parking that would result from the proposal, which would remove two on-street car parking spaces.
- The loss of significant on-street parking in Lesson Park between 2011-2021 (6 as a result of 4 planning permissions) cannot be sustained. The indication that an off-street parking space results in the loss of one on-street parking space is factually incorrect. The provision of off-street parking results in the loss of 1.5 or 2 on-street spaces.
- Nos. 16 & 37 Lesson Park are referenced as a precedent in the appeal statement, the front garden has been totally eliminated and given over to motor vehicles. The instance of nos. 16 & 37 Lesson Park highlights the inappropriate nature of so called "precedents", which should be disregarded.
- No. 57 Lesson Park is a large detached house where some of the front garden has survived. This property is not an example appropriate to no. 40 Lesson Park, which is located on a much smaller site.
- No. 53 Terenure Road East is not an appropriate example as there is no on-street parking facility on this road.
- The effects of repeated off-street parking permissions on the streetscape is evident on Lesson Park with large numbers of gardens have been lost and given over entirely to the motor car with consequent serious environmental degradation. The negative impacts of off-street parking on protected and non-protected structures can be seen in Lesson Park and elsewhere in the city.
- Finally there is also the aspect of an enhanced safety hazard, including at no. 40 Lesson Park, resulting from off-street parking given restricted sight lines.

7.0 Assessment

- 7.1. The following assessment covers the points made in the appeal submission and is an overall consideration of the application. It is noted there are no new matters for consideration.
- 7.2. There is one observation on this appeal from Philip O'Reilly. The points made in the observation are considered in the assessment below.

- 7.3. The applicant proposes to construct a new vehicular access (3.2m) and to provide off-street parking in the front garden of No. 40 Lesson Park, a protected structure (RPS No.4353). The works to the existing front boundary include modifications to the plinth wall, wrought iron railings and landscaping.
- 7.4. The planning authority refused permission for the development for 2 reasons. The first reason for refusal relates to the removal of on-street communal car parking in order to accommodate a private vehicular access. The second reason for refusal relates to the adverse impact on the settling of the protected structure and the residential conservation area of which no. 40 Lesson Park is part.
- 7.5. The appellant's multi-disciplinary team have prepared an alternative development proposal 'Option B' for the consideration of the Board (See Drawing Nos. PL02C & PL03C), which would modify the width (2.7m) of the vehicular entrance in order to protect an existing street tree and also to ensure the employment of the most appropriate conservation strategy.

Option B

- 7.6. The appellant has denoted the application to the planning authority as 'Option A' and has submitted a modified development proposal denoted as 'Option B'. 'Option B' reduces the overall width of the vehicular entrance from 3.2m to 2.7m and migrates the opening to the south by 1.1m.
- 7.7. The planning assessment is interrogated under the following sub-headings:
- Street trees
 - Residential conservation area designation
 - Protected structure designation
 - Guidance criteria for car-parking in the curtilage of a protected structure
 - Precedents cited by the appellant
 - The nature of private car parking provision and transport planning policy
 - The parking requirements of appellant's parent's disability vehicle
 - On-Street Parking and public parking management
 - Conclusion

Street Trees

- 7.8. There are two street trees proximate to the frontage of no. 40 Lesson Park. The appellant clarifies that the northern street tree is a young Turkish Hazel (medium sized tree) and the southern street tree is a an early mature red oak.
- 7.9. 'Option A' provided a separation distance of 1.9m between the trunk of the street tree and the vehicular access dishing area. The Transport Planning Division (TPD) reported that the proposed vehicular entrance would be located 1.9m from the adjacent street tree to the north.
- 7.10. The vehicular entrance and dishing would encroach on the minimum clearance distance required by the development plan having regard to the size of the tree (medium) and the 0.9m buffer proposed between the footpath dishing and the tree trunk would be deficient.
- 7.11. The appellant claims 'Option B' provides a separation distance of 2.6m between the trunk of the street tree and the vehicular access dishing area in compliance with development plan guidance.
- 7.12. I note that the vehicular opening would migrate south. However, the repositioned vehicular entrance would be 3.93m from the southern tree trunk, which is an acceptable separation distance.
- 7.13. The appellant has provided a note from 'The Tree File' consultant arborists, the note recognises that notwithstanding compliance with minimum design standards that there is always the potential to encounter tree roots during works. The arborists advise particular methodologies are adopted to meet contingencies to minimise tree impacts and to promote longevity.
- 7.14. I consider that Option B would in general comply with Appendix 5, Section 4.3.2 (Impact on Street Trees), which requires a minimum separation distance of 2.5m from the surface of the northern tree trunk to the footpath dishing.

Residential Conservation area designation

- 7.15. Policy BHA9 of the City Development Plan 2022-2028 seeks to protect the special interest and character of Dublin's Conservation Areas *inter alia* retention of buildings and features that contribute to the overall character and integrity of the area.

- 7.16. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting wherever possible.
- 7.17. The appellant claims that the proposed works (Option B) would be consistent with Policy Objective BHA9. The appeal statement in part justifies the proposal by reason of the conversion of No. 40 Lesson Park from multiple residential use to single-family use restoration.
- 7.18. The matters pertaining to conservation area designation and proposed works to the front boundary are interrogated below with reference to the David Slattery conservation report (October 2024) submitted with the appeal statement, which specifically assesses the conservation impacts of 'Option B' enclosed with the appeal.

Protected Structure designation

- 7.19. The appellant claims that the proposal would be consistent with Policy BHA2 (development will conserve and enhance protected structures and their curtilage) and Appendix 5, Section 4.3.7 (car parking in the curtilage of protected structures, Architectural Conservation Areas, and Conservation Areas) of the Dublin City Development Plan 2022-2028.
- 7.20. The conservation officer recommends refusal of planning permission by reason of serious injury to the architectural character of both the streetscape and the setting of the protected structure.
- 7.21. The conservation officer cites development plan policy and the Architectural Heritage Protection Guidelines (2011), including the negative impact of cumulative works on the character of historic streetscapes of a series of incremental changes to boundary treatment.
- 7.22. The conservation officer also notes the requirement for mitigation if the development is approved by the planning authority, including the reuse of the extant original railings in the design of the new vehicular access gates.
- 7.23. The appeal statement is accompanied by a conservation report (dated October 2024), entitled Report on the Architectural / Historic Significance of No. 40 Lesson

Park, Ranelagh, Dublin 6 & Observations on the Impact of The Proposed Front Boundary Works, prepared by David Slattery Conservation Architects.

7.24. The report details the proposed works under 'Option B', which will be carried out in compliance with RIAI Guidelines for the Conservation of Buildings (3rd edition December 2010) and the Architectural Heritage Protection Guidelines (2011).

7.25. The conservation report concludes that the proposed works as provided for under 'Option B' would have a minimal impact on the character of the house at no. 40 Lesson Park and the conservation area. The works would provide for an enhanced front boundary treatment.

Development plan guidance criteria

7.26. Appendix 5, Section 4.3.7 provides for the consideration of limited off-street parking against a list of performance criteria where site conditions exist which can accommodate car parking provision without significant loss of visual amenity and/or historic fabric. I interrogate the guidance criteria below.

7.27. The appellant would salvage and utilise the existing front boundary wrought iron railings to create the new vehicular entrance gate. The granite plinth to be removed will in part be reused in the rear garden as a bench. The existing pedestrian entrance would be retained.

7.28. The appellant notes that there are 5 number granite plinths labelled A-E located between the pedestrian gate and the northern boundary. This section of the stone plinth would be removed as shown on Drg. No. PL03C.

7.29. The plinths A and E (plinth E is noted as suffering legacy damage) would be reused on site. The plinths B, C & D are to be repositioned to facilitate the new vehicular gate. Plinth B would be trimmed.

7.30. I note that on the day of my site visit that the granite plinths had been removed from the front boundary.

7.31. Appendix 5, Section 4.3.7 requires that the remaining soft landscaping to the front of the protected structure in general should be more than half of the total area of the front garden space, exclusive of car parking area, footpaths, and hard surfacing.

- 7.32. Furthermore, the car parking bay shall be no greater than 5m x 3m. The proposed car parking area would significantly exceed the mandatory dimensions of a single car parking bay.
- 7.33. The car parking area within the front curtilage of the protected structure would comprise a large paved area greater than half the front garden. The justification is given that the appellant requires manoeuvrability for a mobility impaired vehicle, as illustrated on Drawing no. PL02C (dated October 2024).
- 7.34. The appellant proposes to use resin bound gravel as an appropriate permeable surface treatment for the parking area. Soft landscaping would be provided to ensure the scheme is visually sensitive.
- 7.35. I consider that in general the appellant would implement the works to facilitate vehicular access and in-curtilage parking in accordance with best conservation practice.
- 7.36. However, the principle of development remains problematic in regard to the cumulative impact of incremental works on the historic streetscape as highlighted by the conservation officer, the extensive hard-surfaced in-curtilage parking area proposed, and in the matter of private car parking at the expense of communal parking.

Precedents cited by the appellant.

- 7.37. The appellant has supported the grounds of appeal with a survey of in-curtilage and on-street parking on Lesson Park. The survey is informative and sets a baseline for car park provision on Lesson Park.
- 7.38. It is noted that only 5 properties do not enjoy in-curtilage parking. Furthermore there are 100 estimated on-street car parking spaces available for residents without in-curtilage parking and for their visitors. I consider that there is a generous existing on-street and off-street parking provision on Lesson Park.
- 7.39. The appellant cites the precedent of previously approved vehicular access and in curtilage parking recently granted that resulted in the loss of on-street parking.
- 7.40. The planning permissions for new vehicular entrances along Lesson Park including planning permission granted for off-street parking at nos. 52 (Reg. Ref: 4026/20), 16

(Reg. Ref:3446/15), 37 (Reg. ref: 3766/13) and 57 (Reg. Ref: 3629/11) Lesson Park is cited as precedent.

- 7.41. The appellant acknowledge that the subject permissions were granted in accordance with the policies and objectives of previous development plans. However, it is claimed there is no material change in relevant policy in the current development plan.
- 7.42. The appellant also cites no. 53 Terenure Road East (3100/23), a protected structure, where planning permission under the current development plan was granted for the removal of the existing pedestrian gate and part of the boundary to facilitate a new vehicular entrance and parking.
- 7.43. In the instance of no. 53 Terenure Road East, the observer highlights that it is not an appropriate example, as there is no on-street parking facility on the road. I also note that each case must be considered on its own merits.
- 7.44. Finally, I note the examples cited by the appellant on Lesson Park pre-date the adoption of the current city development plan.

The nature of private car parking provision and transport planning policy

- 7.45. The appeal statement clarifies that the parking area has been designed to cater for 2 parked cars. The parking area can also cater for a large mobility vehicle for one of the appellant's parents to use when visiting.
- 7.46. I consider that the substantive use of the in-curtilage car parking area proposed would be for the purpose of dedicated car parking for the appellants two cars. The appellant acknowledges that there would be a net increase of one car parking space given the elimination of one on-street communal car parking space.
- 7.47. National, regional and local transport planning policy supports a shift from the private car toward more sustainable modes of transport. For example, SPPR3 (Car Parking) of the Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities (2024), requires car-parking provision to be minimised, substantially reduced or wholly eliminated in city centres and urban neighbourhoods of the 5 cities including Dublin.
- 7.48. The Sustainable Mobility and Transport chapter of the Dublin City Development Plan 2022-2028 (Chapter 8) contains a range of policies and objectives supporting

alternative transport options to private car use including SMT1 (Modal shift and Compact Growth) and SMT01 (Transition to More sustainable Transport Modes).

7.49. Section 8.5.7 (car parking) provides for a strong car parking policy implementation in Dublin City, which has been instrumental in changing travel behaviour and promoting sustainable development and sustainable living.

7.50. I note that the applicant site is in a highly accessible location proximate to the canal ring defining the city core and within a reasonable walking distance from bus stop (908) on Lesson Street Upper.

7.51. I consider that the provision of additional car parking in this highly accessible location would be inconsistent with global transport planning policy, which supports a move away from the use of the private car towards more sustainable modes of transport including walking, cycling and public transport.

The parking requirements of appellant's parent's disability vehicle

7.52. The appellant claims that in order to provide safe egress / access generally and from their parent's mobility vehicle the most suitable option is to facilitate a parking space within the curtilage of no. 40 Lesson Park.

7.53. It is claimed the nearest accessibility parking space is located a significant distance from no. 40 Lesson Park at nos. 26 & 27 Leeson Park and, as such, is not a viable parking bay for the appellant's parents.

7.54. The planning case officer and Transport Planning Division recommend that the appellant apply to Dublin City Council for the provision of an accessible parking bay outside no. 40 Lesson Park.

7.55. I would concur with the recommendation of the planning case officer notwithstanding the arguments made in the appeal statement in the matter of the appellant's parents potential exclusion on the grounds of non-residency on the street.

7.56. Furthermore, the appellant states that provision of an accessible bay with standard dimensions (7m) on Lesson Park would not accommodate the type of mobility vehicle used by the appellant's parents, which requires a parking bay with a minimum length of 7.6m. It is claimed that the standard accessible bay would be unsafe in terms of access / egress from their vehicle.

- 7.57. There is a clearly demarcated existing parking bay on street extending for the full width of the Lesson Park frontage of no. 40 Lesson Park. The photographic record accompanying this planning assessment illustrates the elongated and unhindered nature of the demarcated parking bay.
- 7.58. I note the images included in the appeal statement that illustrate the appellants wheelchair bound parent accessing / egressing their mobility vehicle do not include the elongated multi-parking bay directly outside no. 40 Lesson Park.
- 7.59. It is considered that the existing parking bay outside no. 40 Lesson Park could accommodate or subject to consultation with Dublin City Council be modified to accommodate the mobility vehicle of the appellant's parents.

On-street parking and public parking management

- 7.60. Appendix 5, Section 4.1 (On Street Parking) of the Dublin City Development Plan 2022-2028 states 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.
- 7.61. The appellant have carried out a desktop on-street car parking study (using Google Maps) on Lesson Park claiming that 100 on-street spaces are available and evidence that the vast majority of properties (92.6 %) on the street have in-curtilage parking (see Table 2.1 of the appeal statement). I consider that the appellant has demonstrated that the majority of residents on Lesson Park have dedicated off-street parking.
- 7.62. The observer claims that the number of houses with off-street parking on Lesson Park does not justify the erosion of on-street car parking targeted at other users that would result from the proposal. The observer notes that loss of on-street parking in Lesson Park between 2011-2021 (4 planning permissions) cannot be sustained.
- 7.63. A pay & display and residents permit parking scheme is in operation on Lesson Park (Monday-Friday 08.00-18.30). I consider that the existing on-street car parking is a finite managed public resource.

- 7.64. Section 8.5.7 (car parking), Policy SMT25 *inter alia* provides for the 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.
- 7.65. Furthermore, the policy provides for the management of on-street parking 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.
- 7.66. The appellants claim that there is sufficient on-street car parking available for other users given that there 100 on-street spaces available and in-curtilage parking provides dedicated parking for all residents bar 5 properties without off-street parking.
- 7.67. Notwithstanding the arguments of the appellant and the fact that the proposal would provide the equivalent of two car parking spaces off-street for the loss of one on-street car parking space, the proposed additional car parking spaces would not be publicly accessible.
- 7.68. Therefore, the proposal would result in the depreciation of communal parking provision on Lesson Park and should be refused planning permission given the policy framework of the Dublin City Development Plan, which seeks to protect existing on-street parking including providing compensatory spaces for the loss of on-street car parking spaces elsewhere as provided for by Policy SMT25.

Conclusion

- 7.69. The substantive use of the in-curtilage car parking area proposed would be for the purpose of dedicated car parking for the appellants two cars. The appellant acknowledges that there would be a net increase of one car parking space given the elimination of one on-street car parking space.

I consider that the provision of an additional car parking space in this accessible location would be inconsistent with global transport planning policy, which supports a move away from the use of the private car towards more sustainable modes of transport including walking, cycling and public transport.

The proposal would provide the equivalent of two car parking spaces off-street, which would not be publicly accessible. However, the proposal would remove one on-street communal car parking space, which would depreciate the finite managed car parking resource on Lesson Park, which is subject to a pay & display and residents permit parking scheme in operation (Monday-Friday 08.00-18.30), and would be inconsistent with Policy SMT25.

I also acknowledge the concerns of the conservation officer in the matter of the cumulative impact of incremental works on the historic streetscape including the loss of historic fabric and legability.

Finally, the extensive hard-surfaced in-curtilage parking area proposed would not comply with Appendix 5, Section 4.3.7 (Parking within the curtilage of protected structures).

I conclude that the proposed development would be inconsistent with Section 8.5.7 (car parking), Policy SMT25, Policy BHA9 (development in conservation areas) and Appendix 5, Section 4.3.7 of the Dublin City development Plan 2022-2028 and should be refused planning permission.

7.70. Appropriate Assessment Screening

The proposed development comprises a new vehicular access and in-curtilage domestic car parking 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 refusal of planning permission for the reasons and considerations outlined below.

9.0 Reasons and Considerations

Having regard to the grounds of appeal, the reasons for refusal, the residential conservation zoning objective and the policy framework provided by the Dublin City Development Plan 2022-2028, It is considered that the proposal to alter the existing historic boundary treatment comprising a plinth wall and wrought iron railing and to

provide a vehicular entrance and off-street parking area to no. 40 Lesson Park, a protected structure, which would provide two in-curtilage private car parking spaces and eliminate an on-street communal car parking space, would be inconsistent with Section 8.5.7 (car parking), Policy SMT25, Policy BHA2 (development will conserve and enhance protected structures and their curtilage), Policy BHA9 (development in conservation areas) and Appendix 5, Section 4.3.7 (parking in the curtilage of Protected Structures and in Architectural Conservation and Conservation Areas) of the Dublin City Development Plan 2022-2028 and, as such, would be inconsistent with the proper planning and sustainable development of the residential conservation area.

10.0 Refusal

1.	The removal of an on-street car parking space to accommodate a private vehicular access is contrary to the Dublin City Council policy and would reduce the supply of on-street car parking available to residents on the street. The proposal would therefore be contrary to Policy SMT25, Section 8.5.7 and Appendix 5, Section 4.1 of the Dublin City Development Plan 2022-2028, 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 reduced supply of on-street parking would detract from the convenience of road users and the residential amenity of surrounding properties. The proposal would set an undesirable precedent for similar type development and would
2.	Having regard to the Z2 residential conservation zoning objective and the Protected Status of the house, the proposed modification of the extant historic railings and stone plinth and associated works would have a seriously injurious impact on the special character of the Protected Structure, its setting and wider streetscape, and as such would be contrary to Policy BHA2 which seeks to ensure development conserves and enhances Protected Structures and their curtilage and Policy BHA9 of the City Development Plan 2022-2028 which seeks to protect the special interest and character of Dublin's Conservation Areas. The proposed

development is therefore considered contrary to the proper planning and sustainable development of the area.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.



Anthony Abbott King
Planning Inspector

19 February 2025

DECISION QUASHED