



An  
Bord  
Pleanála

## Inspector's Report ABP – 303234 – 18.

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<b>Development</b>	Modifications to site layout including construction of a wall and railings into the existing 3 no. openings in southern site boundary wall and the omission of the footpath between Hampton Gardens and Hampton Avenue.
<b>Location</b>	Hampton Gardens, Balbriggan, Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F18A/0543.
<b>Applicant(s)</b>	Hampton Gardens Residents Association.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Gordon Finn.
<b>Observers</b>	Residents of Hampton Gardens.
<b>Date of Site Inspection</b>	20 <sup>th</sup> February 2019.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. The 2.41ha appeal site consists of a residential estate 'Hampton Gardens'. The site is located c2km to the west of Balbriggan's town centre and c2.5km to the east of the R122 interchange with the M1 in County Dublin.
- 1.2. The site benefits from road frontage onto the R122 Regional Road (Clonard Road/Naul Road). It also benefits from road frontage onto Castlemill Link Road on its western side. On the opposite side of this link road is St. George's National School. To the east of this estate there is a large residential estate known as 'Westbrook' and to the north of the subject residential estate there is a corridor of public open space. This public open space separates Hampton Gardens from a large residential estate known as 'Moylearagh'. To the south east of Hampton Gardens where Clonard Road meets Chapel Street there is a number of retail units including a 'Tesco Extra'.
- 1.3. The surrounding area has an edge of settlement character with residential development predominating.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for modifications to site layout including construction of a wall and railings into the existing 3 no. openings in southern site boundary wall and the omission of the footpath between Hampton Gardens and Hampton Avenue.
- 2.2. This application is accompanied by a letter of consent from the landowner for the making of this application.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority **granted** permission subject to conditions including -  
**Condition No. 5:** Requires that the walls and railings be removed, and the openings reinstated within 5-years of the grant of permission unless further retention is granted.

**Condition No. 6:** Requires that the ramp and step infrastructure at the openings to be completed and remain in place.

**Condition No. 7:** Requires the laneway running alongside 22 Hampton Gardens Drive and 22 Hampton Gardens Avenue to be subsumed into the garden area of these properties.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planning Officer's report is the basis for the Planning Authority's decision.

### 3.2.2. Other Technical Reports

**Water Services:** No objection.

**Parks:** No objection.

**Transportation:** No objection.

## 3.3. Prescribed Bodies

### 3.3.1. Irish Water: No objection.

## 3.4. Third Party Observations

### 3.4.1. The Planning Authority received 23 submissions in support and one submission objecting to the proposed development. The submissions in support of the proposed development consider that the access points are not wanted for safety and anti-social reasons. The submission objecting to the proposed development raises the same concerns as their appeal submission to the Board (See: Section 6.1).

## 4.0 Planning History

- **P.A. Reg. Ref. No. F18A/0177:** Planning permission was **refused** for a development consisting of the modifications to the site layout, in particular the omission of 2 no. pedestrian ramps, boundary modifications together with all associated site works.

## 5.0 Policy and Context

### 5.1. Development Plan

- 5.1.1. The site forms part of a larger parcel of land zoned 'RA' under the Fingal Development Plan, 2017-2023. The zoning objective for such land is to: *“provide for new residential communities subject to the provision of the necessary social and physical infrastructure”*.
- 5.1.2. Objective PM32 of the Development Plan states that regard will be had *“to the joint Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government’s Design Manual for Urban Streets and Roads (DMURS), (2013) and the National Transport Authority’s Permeability Best Practice Guide (2015), in the provision of good urban design”*.
- 5.1.3. Objective PM61 of the Development Plan states that the Planning Authority will *“ensure permeability and connections between public open spaces including connections between new and existing spaces, in consultation to include residents.”*
- 5.1.4. Objective Balbriggan 11 states that the Planning Authority will *“ensure a safe and convenient road, pedestrian and cycle system promoting permeability, accessibility and connectivity between existing and new developments within the town”*.

### 5.2. National Policy

#### 5.2.1. Design Manual for Urban Roads and Streets (DoECLG/DoTTS, 2013)

Chapter 3 refers to 'Street Networks' and recommends connectivity between destinations to promote higher levels of permeability and legibility for all users including cyclists and pedestrians.

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) (2009).

Chapter 3 refers to 'The Role of Design' and Section 3.14 recommends that connectivity and permeability be promoted in particular it states that routes within the area should be accessible for everyone and as direct as possible, and for this reason “gated estates” should be discouraged. The design process should consider what

levels of permeability are appropriate for different street users, with permeability for pedestrians and cyclists taking precedence over permeability for vehicles.

### **5.3. Natural Heritage Designations**

5.3.1. None relevant.

### **5.4. Environmental Impact Assessment**

5.4.1. Having regard to the serviced nature of the site, the quantum of development sought under this application, the distance between the site and sensitive receptors and the lack of any direct hydrological connectivity from the site to any nearby sensitive receptors, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. Therefore, the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

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

6.1.1. The grounds of appeal can be summarised as follows.

- The proposed development would result in a reduced level of permeability.
- The proposed development would result in the loss of residential amenity.
- Concerns are raised that there are ambiguities and inconsistencies in both the application and the Planning Authority's decision.
- The closure of the 3 no. pedestrian/cyclist access points onto the Naul Road on the southern boundary of the estate would perpetuate the poor level of accessibility within the southern areas of Hampton Gardens estate. At present there is only one pedestrian access serving the entire estate and this opens onto the Castlemill Link Road at the north eastern corner of the separate. This is located 300m walking distance from the south-easternmost corner of the estate.
- The closure of these access points would discourage walking to amenities and public transport.

- A similar application P.A. Reg. Ref. No. F18A/0117 was refused. The reason for refusal indicated that their closure would contravene objectives PM32 and Balbriggan 11 of the Development Plan.
- The closure of such access points contravenes national policy including guidance set out in The Design Manual for Urban Roads and Streets (2013); Permeability Best Practice Guide (NTA, 2015) and the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the associated Urban Design Manual – A Best Practice Guide (2009).
- Concerns are raised in relation to the legitimacy of the applicant and the lack of awareness provided to property owners in the estate to the making of this application.
- The drawings submitted fail to indicate the extend of the footpath to be omitted and no details have been provided on how it is proposed to be closed off.
- Pedestrian access points are necessary to provide a good level of permeability and connectivity to the surrounding area.
- The lands to which this application relate are not in the ownership of the applicant.
- Concern is raised that Condition No. 7 requires that the laneway to the south of the subject site which runs between Hampton Gardens Avenue and Hampton Gardens Drive shall be subsumed into the gardens of No. 22 Hampton Gardens Avenue and No. 22 Hampton Gardens Drive. The owners of these two properties are not party to this application either.

## 6.2. **Observer**

6.2.1. The observation received by the Board to the grounds of this appeal can be summarised as follows –

- The Planning Authority's decision to grant permission is supported.
- Three entry points threaten the safety of the residents and properties within this estate.

- There has been an increase in littering the estate since the three sections were removed from the southern wall. It is considered that this litter is coming in from the Naul Road.
- The Board is requested to have regard to the residents support for the proposed development.

### **6.3. Applicants Response**

6.3.1. The applicant's response can be summarised as follows -

- This appeal has been lodged by one resident and it is contended that the appellants views do not represent the views of most of the residents within the Hampton Gardens residential estate.
- A petition accompanies this submission.
- It is considered that the Planning Authority's decision to grant permission in this case is a good example of re-evaluating a situation within a housing estate.

### **6.4. Planning Authority Response**

6.4.1. The Planning Authority's responses can be summarised as follows -

- The Planning Authority refutes the assertions of ambiguities and inconsistencies in their decision to grant permission.
- The applicant has the consent of the landowner to make this planning application.
- No objection has been raised to the temporary 5-year grant of permission imposed.
- The matter of permeability from the estate was assessed.
- It is requested that the Board have regard to their Transportation Planning Section report.
- The estate is served by an established main pedestrian and vehicular access on its north west side.
- The Board is requested to uphold its decision but should it be minded to grant permission a Section 48 condition should be imposed.



## 7.0 Assessment

### 7.1. Introduction

7.1.1. The main issues are those raised in the grounds of appeal and I consider that no other substantive issues arise. The issues are -

- Principle of the Proposed Development
- Impact on Residential Amenity
- Anti-social Behaviour
- Civil Matters
- Adequacy of Documentation

7.1.2. The matter of 'Appropriate Assessment' also requires assessment.

### 7.2. Principle of the Proposed Development

7.2.1. By way of this application permission is being sought to block 3 existing but to be completed pedestrian/cycle access points onto the R122 and the omission of an existing footpath between Hampton Gardens and Hampton Avenue which provides an internal link within the Hampton Gardens residential estate between two of the subject openings.

7.2.2. I note that The Design Manual for Urban Roads and Streets defines "connectivity" as "how easily and directly users are able to move through street networks" and permeability as "the degree to which an area has a variety of pleasant, convenient and safe routes through it". It indicates that permeability and connectivity should be one of the factors that influence the design of streets in urban areas. It advocates that residential layouts should limit the use of cul-de-sacs that provide no through access, they should maximise the number of walkable and cyclable routes between destinations. By maximising the connections within a site to its surrounding environment it indicates that a street network will evolve that meets local accessibility needs. It also encourages high levels of pedestrian and cyclist permeability as it considered in so doing it would help to reduce reliance on cars as well as reduce the distance to be journeyed between places.

- 7.2.3. The “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas” provides guidance in relation to design of housing areas and urban streets. It also recommends the promotion of higher levels of permeability, connectivity and legibility. Specifically, Chapter 3 of the said Guidelines refers to the role of design in ensuring the promotion of connectivity and permeability with Section 3.14 stating that routes within the area should be accessible for everyone and as direct as possible.
- 7.2.4. With regard to the local planning policy provisions Objective PM32 and Objective Balbriggan 11 both advocate the positive merits of achieving good levels of permeability and connectivity between new and existing developments.
- 7.2.5. Having regard to local and national planning policy provisions I consider that the principle of the proposed development is contrary to these provisions and as such it is not acceptable.

### **7.3. Residential Amenities**

- 7.3.1. The applicant seeks to block all pedestrian/cycle access points with the reasons given for these works as safety and anti-social behaviour. It would appear from my site inspection that these openings though present have yet to be completed, they are blocked up and it would appear unlikely that they have ever been in functional use. As such the section of pathway to be omitted is an internal pedestrian/cycle link between Hampton Garden Drive and Hampton Gardens Avenue only.
- 7.3.2. The appellant considers that the loss of the three pedestrian/cycle access points onto the R122 would adversely impact on the residential amenities of residents of Hampton Gardens. Particularly those residing in the southern portion of the estate as it would result in these residents having a significantly longer route to access the public road network on foot and on bicycle. The appellant further argues that due to the location of the remaining pedestrian/cycle access relative to public transport provision in the area it would also result in longer journey times to reach this provision. This they argue would mean that residents would be more reliant on their cars.
- 7.3.3. Having regard to the planning history of the subject residential estate a similar application was made under P.A. Reg. Ref. No. F18A/0117. Under this application permission was sought to omit two pedestrian ramps located at Hampton Gardens

Drive and Hampton Gardens Grove. The Planning Authority in their reason for refusal considered that the proposed development “*would significantly reduce permeability and connectivity between Hampton Gardens and the wider area*” in a manner that would materially contravene Objective PM32 and Objective Balbriggan 11 of the Fingal Development Plan. They also considered that the omission of these two openings would “*significantly limit the number of routes between the development and the wider area thereby forcing pedestrians in a circuitous route*” and it would “*result in the intensification in the use of the only remaining pedestrian/bicycle access at the end of Hampton Gardens Avenue which would be injurious to the residential amenities*”.

- 7.3.4. In my view the omission of the access points proposed under this application would result in a diminishment of the expectant residential amenities of Hampton Gardens by reducing the physical infrastructure that serves to connect and make this residential estate permeable to its surrounding environment.
- 7.3.5. Moreover, it would also result in Hampton Gardens Grove, Hampton Gardens Avenue and Hampton Gardens Drive terminating at cul-de-sacs, i.e. having no access point onto the R122, the closest public road and the main route in this area linking to the centre of Balbriggan. In my view this would be contrary to guidance set out in the Design Manual for Urban Roads and Streets as previously set out and it would also be contrary to Objective 32 and Objective Balbriggan 11 of the Development Plan. Further it would significantly reduce individual pedestrian/cycle access points serving the Hampton Gardens residential estate and in turn result in the intensification of remaining access points. Based on these considerations the proposed development would also conflict with the ‘RA’ zoning of the site and its setting as it would result in the residential estate of Hampton Gardens having poorer quality physical infrastructure for its residents.
- 7.3.6. In relation to the omission of the pedestrian footpath that extends from the access point at the southern end of Hampton Gardens Avenue and Hampton Gardens Drive this arguably would further reduce the level of permeability and connectivity within the Hampton Gardens residential estate. Notwithstanding, I do not consider that this is high quality pedestrian footpath in terms of its limited integration with any streetscape scene and passive surveillance. Whilst I raise no objection to the principal of its omission I concur with the appellant in this case that the information

provided on this component of the proposed development is insufficient. In particular in terms of how the existing footpaths would be incorporated into the adjoining residential properties; the proposed boundaries to be used and whether the applicant proposes this component of the proposed development to be permanent.

#### **7.4. Visual Amenities**

7.4.1. I raise no significant issue to the proposed development on visual amenity grounds other than the maintenance of the three access points along the southern boundary of Hampton Gardens and bounding with the R122 arguably adds vibrancy and vitality to this stretch of the R122. The blocking up of these access points would result in Hampton Gardens failing to have any meaningful visual and physical connection with the streetscape scene of the R122. I question the acceptability of this in terms of place making and ensuring that new developments integrate with and connection to their surrounding environment. Essentially the proposed development it would result in the southern portion of this scheme turning its back on the public domain of the R122. I note that Objective Balbriggan 11 seeks to ensure that new developments promote permeability, accessibility and connectivity. These three access points onto the R122 are in the spirit with this objective and for this reason should be maintained, completed and put into functional use.

#### **7.5. Anti-social Behaviour**

7.5.1. The Planning Authority and the Applicant by way of their planning application have made a case based on the issue of safety, anti-social behaviour and the use of others of these access points as a short cut to the school on Castlemill Link Road. These are the reasons given to support these access points to be permanently closed.

7.5.2. These concerns are not substantiated by any evidence nor can be as the access points are not in functional use and the footpath arguably serves internal movement, permeability and connection at the southern end of the subject residential estate.

7.5.3. I consider that security measures could be taken to address problems of anti-social behaviour however, the restricted permeability if permitted would set an undesirable precedent for similar developments to occur. This would be at variance with local and national policy on such matters as already referred to.

#### **7.6. Civil Matters**

- 7.6.1. The appellant raises several concerns with regards to landownership and consent. I note that this application is accompanied by the purported consent of the legal landowner, but I acknowledge that the consent to incorporate the footpath into No. 22 Hampton Gardens Avenue and No. 22 Hampton Gardens Drive, has not been provided. Notwithstanding these matters fall outside of the remit of the Board who are ultimately charged with considering whether the proposed development is in accordance with the proper planning and sustainable development of the area. I also refer to Section 34(13) of the Planning and Development Act, 2000 as amended. It indicates that “*a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development*”.
- 7.6.2. Should the Board be minded to grant permission for the proposed development it could impose a condition or an advisory note reiterating Section 34(13) of the said Act.

#### 7.7. **Adequacy of Documentation**

- 7.7.1. The appellant raises concerns in relation to the adequacy of the documentation provided with this application. Notwithstanding, I consider that the information provided together with the inspection carried out of the site is sufficient for the Board to make a determination on the proposed development.

#### 7.8. **Appropriate Assessment**

- 7.8.1. Having regard to the modest nature and scale of the proposed development and its distance from alongside lack of any hydrological link to the nearest European site, I consider that no Appropriate Assessment issues arise, and I do not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### 8.0 **Recommendation**

- 8.1. I recommend that permission be **refused** for the reasons and considerations set out below.

#### **Reasons and Considerations**

The proposed development would prohibit permeability through Hampton Gardens residential estate and would be contrary to Objective PM32 and Objective Balbriggan

11 of the Fingal Development Plan, 2017-2023. Furthermore, the proposed development would be contrary to the provisions of “The Design Manual for Urban Roads and Streets” published in 2013 which seeks to maximise permeability and connectivity for new residential developments to their surrounding environment. The proposed development would seriously injure the amenities of the area by reason of prevention of pedestrian movement through the southern portion of the Hampton Gardens residential estate to the R122, would set an undesirable precedent for further such development and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young  
Planning Inspector

21<sup>st</sup> February 2019