



An
Bord
Pleanála

Inspector's Report ABP 313871-22

Development	Provision of a double timber access door in the rear wall of the property.
Location	No. 4 Belgrave Square North, Monkstown, Blackrock, Co. Dublin (curtilage of protected structure)
Planning Authority	Dún Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D21A/1120
Applicant(s)	Luke Clancy
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third-Party
Appellant(s)	Trafalgar Lane Residents Association.
Observer(s)	Luke Clancy
Date of Site Inspection	05 th July 2023
Inspector	Brendan Coyne

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1.0 Site Location and Description

1.1. The subject site is situated on the northern side of Belgrave Square and is bordered by Trafalgar Lane, a cul-de-sac to the north. Within the site is a two-storey over basement-level terraced dwelling which is designated a Protected Structure (RPS no. 435) in the Dún Laoghaire-Rathdown County Council Development Plan 2022-2028. Belgrave Square, located south of the site, is an open space area dating back to the 1840s. Pedestrian access to the property is provided from the front (south) via Belgrave Square North. Pay and display on-street parking is available in front of the property along Belgrave Square North, specifically on the northern side of the road carriageway, as parking is not allowed on the southern side. Along the rear northern boundary of the site, Trafalgar Lane is a 2.9m high stone wall. This boundary incorporates a pedestrian access gate, and a strip of narrow planting is located along the roadside edge. Development on the northern side of Trafalgar Lane consists of a terrace of two-storey mews dwellings that directly face the laneway. Unrestricted parking is available on both sides of Trafalgar Lane. The carriageway width of Trafalgar Lane, specifically to the north of the site, measures 7.6m according to the provided layout plan. Other dwellings to the eastern side of the subject premises along Belgrave Square North have double door vehicular entrance gates opening onto Trafalgar Lane.

2.0 Proposed Development

2.1. Application as lodged to the Planning Authority on 17/12/2021

Permission sought for the following (as described in public notices);

- Provision of a double timber access door in the rear of the property (curtilage of a Protected Structure).

2.1.1. Revised Proposal as submitted by way of Significant Further Information on the 29/04/2022

- Confirmation that the proposed double access gates are intended for vehicular use.

3.0 Planning Authority Decision

3.1. Decision

Dún Laoghaire-Rathdown County Council GRANTED permission for the proposed development subject to 3 no. standard Conditions.

3.2. Planning Authority Reports

3.2.1. First Report (16/02/2022)

- The site falls under zoning objective A, which aims to protect and improve residential amenity.
- Residential development is permitted on the site.
- Key issues for consideration are compliance with Development Plan policy, impact on visual and residential amenity, access and parking, and drainage.
- The proposed development should be assessed in terms of its impact on the Protected Structure status of the subject dwelling.

Re. Built Heritage:

- According to the Conservation Officers' report, the proposed development, which includes the creation of an opening and double timber doors to the rear wall, does not raise any built heritage objections.
- The Conservation Section confirms that the development will not negatively impact the Monkstown Architectural Conservation Area (ACA) or diminish the architectural interest of the Protected Structure.
- As a result, the proposed development is deemed to be in compliance with Policy AR 1, AR 2, and AR12 of the Dun Laoghaire-Rathdown County Development Plan 2016-2022.

Re. Residential Amenity

- The proposed development seeks to provide a double timber access gate in the rear boundary of No. 4 Belgrave Square North.
- The specific use of the gates has not been provided, such as whether it is intended for a parking area or any other purpose.
- In order to ensure orderly development, further information is necessary to determine the use of the gates and any modifications required for the rear garden area, including landscaping, drainage plans, and external lighting proposals. This additional information will be requested.
- The impact on the residential amenity of the dwellings along Trafalgar Lane is not expected to be negative in terms of overshadowing, overlooking, or appearance.
- However, concerns arise due to the lack of details about the intended use of the gates and the rear garden of No. 4 Belgrave Square North, particularly regarding potential impacts on surrounding dwellings, such as traffic, lighting, and drainage issues.
- To address these concerns, further information will be requested as part of the assessment process.

Visual Impact:

- The proposed development, consisting of double timber gates in the rear site boundary wall, will not have any visual impact on the streetscape of Belgrave Square since it is located at the rear of the site.
- The setback of c. 60 meters between the proposed development and the Protected Structures along Trafalgar Terrace, as well as the built form between them, ensures that the proposed development will not adversely impact the Protected Structures.
- The height of the double timber gates is stated to be 2.4 meters, with a width of 3 meters, but it is deemed that they will not adversely affect the visual amenity of Trafalgar Lane.
- Some planting, including various potted plants, will be removed or relocated to accommodate the proposed development. However, further details of the overall development proposal, including any other changes to the existing garden area, are required for a detailed assessment.

- Considering the location, design, and scale of the proposed timber gates, it is concluded that the development will not have an adverse impact on the streetscape, character, or appearance of the Protected Structures along Belgrave Square, Trafalgar Terrace, or the Monkstown Architectural Conservation Area (ACA).
- However, to determine if the proposed development would have an adverse visual impact on the residents of Trafalgar Lane, additional information regarding the overall development is needed.

Access, Parking, and Transport

- The proposed gateway includes inward opening doors with a width of 3 meters, which accords with Section 8.2.4.9 of the Dun Laoghaire-Rathdown County Development Plan 2016-2022, specifically addressing vehicular entrances and hardstanding areas.
- Further clarification regarding the use of the proposed development is necessary to ensure that it would not create a traffic hazard along the laneway.
- It is acknowledged that the proposed development would result in the loss of a parking space along Trafalgar Lane.

Drainage

- The proposed development does not involve any changes to the current drainage arrangements serving the subject site.
- The Planning Authority has concerns about the necessity and intended use of the double gateway into the subject site.
- The Applicant will be asked to provide clarification regarding the use of the proposed gateway and to submit details of any additional works related to it, such as proposed hardstanding areas, pathways, or modifications to the existing garden area.

Appropriate Assessment /

- The proposed development has been screened for AA (report on file)
- It has been determined that the proposed development would not significantly impact a Natura 2000 Site.

3.2.2. Further information was requested requiring the following:

- *The proposed development consists of the provision of a double timber access door in the rear wall of property at 4 Belgrave Square North. Limited details have been submitted in support of the application and therefore, the Planning Authority have concerns in relation to the need and use of the proposed gateway. Accordingly, the Applicant is requested to clarify the need and use of the proposed development and submit comprehensive details in support of same, including any ancillary works required to accommodate the proposed works, e.g., Hard/soft landscaping proposals, hardstanding areas, drainage proposals and lighting proposals in the rear garden as applicable.*

3.2.3. Second Report (25/05/2022)

- Significant Further Information was received.
- The Applicant provided a response to the Further Information request on 29/04/2022, which included the following documents for consideration:
 - A cover letter prepared by Jack Hanafin (Agent).
 - A site layout drawing.
 - A revised site notice in accordance with Article 35 of the Planning and Development Regulations 2001 (as amended).
 - A copy of the revised newspaper notice in accordance with Article 35 of the Planning and Development Regulations 2001 (as amended).

Applicants Response:

- The Applicant's response includes a cover letter from the agent, confirming that the proposed double access gate is intended for vehicular use.
- The cover letter provides justification for the gate, which can be summarised as follows:
 - The age profile of the applicants and their commitments, including unpredictable trips to care for their disabled son, which often occur during periods of high demand for parking spaces.

- Parking pressures in the area due to the proximity of the site to the seaside amenity, a national school, and the headquarters of Comhaltas Ceoltoiri Eireann.
- The cover letter states that the proposed ancillary works will consist of a vehicular gate in the rear boundary wall of the site. The existing paving at the rear of the site will serve as the hardstanding parking area. It is mentioned that no additional surface water runoff will be generated, and therefore, no changes are proposed to the existing surface water drainage arrangements.
- The cover letter also notes that no new external lighting arrangements are proposed in relation to the gate.
- The revised drawing provides details of the required "swing" for the applicant's vehicle to access and exit the site.

Planning Assessment:

- The response to the further information provides clear details that the proposed access gates are intended for vehicular access to the rear of the site, and a rationale for the gates is provided.
- The 'Rear Vehicular Access-FI' drawing received on 29/04/2022 outlines the level of works required to accommodate the proposed access gates.
- The proposed access gate enters/exits onto Trafalgar Lane, which is privately owned, before joining Belgrave Place to the east of the subject site.
- Since the issuing of the further information request, a new Development Plan has been adopted for the area i.e. the Dun Laoghaire- Rathdown County Development Plan 2022-2028.
- The zoning objective of the site remains as 'A' in the 2022-2028 Dun Laoghaire- Rathdown County Development Plan, which aims to provide residential development while improve residential amenity while protecting the existing amenities.
- The proposed development accords with the zoning objective and is considered acceptable in principle.
- Section 12.4.8 of the new County Development Plan outlines the criteria for assessing new vehicular entrances and hardstanding areas, and the proposed development generally complies with these criteria.

- The Conservation Division has not raised any objections to the development, considering it acceptable in terms of built heritage and visual amenity, particularly concerning the Monkstown Architectural Conservation Area and nearby Protected Structures.
- The submission acknowledges that the proposed works primarily benefit the applicant and do not constitute a significant increase in the volume of vehicles using Trafalgar Lane.
- The proposed works are not expected to have a detrimental impact on the residential amenity of neighbouring dwellings along Trafalgar Lane.
- It is noted that Trafalgar Lane is privately owned, and legal entitlement to its use is a civil matter.
- Based on the response to the further information request, the provision of a vehicular entrance in the rear site boundary of no. 4 Belgrave Square North is generally acceptable, subject to conditions.
- The proposed development consists of a vehicular access in the site boundary and associated works. Development contributions are not applicable in this instance.

3.2.4. Other Technical Reports

3.2.4.1. Drainage Planning Report (2nd report dated 06/05/2022)

No objection subject to standard Condition

3.2.4.2. Conservation Officer Report (13/01/2022)

No objections.

4.0 Planning History

4.1.1. Subject Site

P.A. Ref. D20A/0168 Permission GRANTED on the 19th Aug 2020 for the proposed change of use from two dwellings to one dwelling with associated internal alterations and reinstatement of the previously removed stairs to the lower ground floor. Removal

of the non-original conservatory. Removal of non-original external stairs. Alterations of existing windows and doors to side (west) and rear (north) elevations. Replace existing rooflights with conservation rooflights. Mechanical and electrical upgrades.

P.A. Ref. D08A/0861 Permission GRANTED on the 08th Jan 2009 for a proposed infill single-storey extension to the rear comprising a conservatory for use as living accommodation. (Protected Structure).

4.1.2. **Relevant Applications in the Surrounding Area**

P.A. Ref. D07A/0998 / ABP Ref. PL06D.225902 - 14 Belgrave Square, Monkstown, Co. Dublin.

Permission REFUSED on appeal on 16 Apr 2008 for the proposed development consisting of A) A two-storey extension with basement level to the rear of existing dwelling, with a single-storey link. (Total Gross Floor Area (GFA) of the extension is c. 163sqm.). B) The widening of the existing vehicular access at Trafalgar Lane; and the raising of the rear boundary wall by c. 910mm. -C) Permission is also sought for all associated site development, landscaping and boundary treatment works. The reasons for refusal are summarised as follows;

1. The proposed extension is considered an overdevelopment, visually obtrusive, and harmful to the residential and visual amenity, and thereby would be contrary to the Development Plan and the proper planning and sustainable development in the area.
2. The proposed extension, due to its design, size, scale, height, and proximity to boundaries, would be a highly prominent and intrusive development within a Conservation Area with many Protected Structures, impacting their character and setting and contravening the Development Plan, thus would be contrary to the proper planning and sustainable development in the area

P.A. Ref. D03A/0129 / ABP Ref. PL06D.202690 - No. 5, Belgrave Square, Monkstown, Co Dublin.

Permission GRANTED on appeal on 02 Sep 2003 for the proposed creation of vehicular entrance gates in the existing garden wall, the creation of off-street parking in the rear garden and the blocking up of pedestrian entrance door in the existing garden wall to the rear, a protected structure in 2 no. dwelling units.

5.0 Policy and Context

5.1. Development Plan

Dún Laoghaire-Rathdown County Council Development Plan 2022-2028 is the statutory plan for the area. The following provisions are considered relevant:

Land Use Zoning: The site is zoned 'A' with the objective 'To provide residential development and improve residential amenity while protecting the existing residential amenities'.

Architectural Conservation Area: The site is located within the Monkstown Architectural Conservation Area (ACA).

Section 11.4.2.1 Policy Objective HER13: Architectural Conservation Areas

Section 12.3.4 Residential Development – General Requirements

Section 12.3.4.1 Road and Footpath Requirements

Section 12.4.8 Vehicular Entrances and Hardstanding Areas

Section 12.4.8.1 General Specifications

Section 12.4.8.2 Visual and Physical Impacts

Section 12.4.8.1 General Specifications

Section 12.4.8.2 Visual and Physical Impacts

Section 12.4.8.3 Driveways/Hardstanding Areas

Section 12.4.8.4 ACAs/Protected Structures

Section 12.4.8.5 Financial Contribution

Section 12.8.7.2 Boundaries

Monkstown Architectural Conservation Area Character Appraisal (2012)

5.2. Other Relevant Government Policy / Guidelines

Design Manual for Urban Roads and Streets (2019).

5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), c. 180m to the north of the site.
- South Dublin Bay Special Area of Conservation (Site Code: 000210), c. 180m to the north of the site.
- South Dublin Bay Proposed Natural Heritage Area (Site Code: 000210), c. 180m to the north of the site.

5.4. EIA Screening

Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was received from Colin Galavan & Associates - Architects, representing the Trafalgar Lane Residents Association, against the decision made by the Planning Authority to grant permission for the proposed development. The main grounds of appeal are summarised under the headings below;

6.1.1. **Inaccurate and misleading drawings:**

- The applicant provided incorrect and misleading information during the planning application process.
- The applicant did not clearly state their intention to apply for a vehicular entrance in the initial planning application.
- The application was made for a timber double 'access' door instead.
- The planning authority requested further information to address this issue.
- The applicants submitted further information, including readvertising the application, to confirm that the planning application was indeed for a vehicular entrance onto Trafalgar Lane.
- An additional plan drawing, "Drwg Rear Vehicular Access," was submitted.
- The drawing is considered incorrect and misleading for basing a planning assessment solely on it.
- The drawing indicates a width of 7.6 meters of Trafalgar Lane, but fails to account for a pedestrian path in front of the mews houses opposite numbers 15, 16, and 17 Trafalgar Lane.
- The drawing incorrectly suggests a two-way flow of traffic on the lane.

6.1.2. **Ownership and legitimate parking rights of mews house residents:**

- Trafalgar Lane is not a road adopted by the Local Authority.
- The residents of the mews houses on Trafalgar Lane own the northern side of the lane, where they legitimately park their cars.
- There are no parking rules in place to limit or control vehicle parking on the lane.
- Cars parked in front of the mews houses would obstruct the entry and exit of a car from No. 4 Belgrave Square.
- The applicant has not demonstrated any legal entitlement, under the terms of their lease, to use the lane for vehicular purposes.
- Granting planning permission for the new entrance would go against the terms of their lease.

- There is available parking for the applicant on Belgrave Square.
- The residents of the mews houses on Trafalgar Lane refuse permission to the applicant to trespass and/or use the lane for vehicles.

6.1.3. **Vehicular Access, Sightlines and Congestion**

- The lane frequently experiences congestion due to parked cars and the lack of a turning area.
- Cars are parked daily by visitors along the southern side of the lane due to its proximity to the sea and other amenities, causing congestion.
- The lane is frequently reduced to a single carriageway, particularly during weekends and at the specific location in question.
- The absence of a turning area makes manoeuvring vehicles on the lane difficult.
- The applicant has not adequately shown how a car could safely enter and exit the proposed new entrance.
- The drawing indicates a turning arc that does not conform to good practice.
- The normal turning arc for a car has an inner arc of 4.39 meters and an outer arc of 7.77 meters.
- The turning arc shown on the drawing is smaller and assumes no cars are parked next to the southern boundary of the lane, which is a regular occurrence.
- Exiting the proposed new entrance would create unsafe sight lines, especially when cars are parked on both sides of the lane.
- This would pose a danger to both pedestrians and cars travelling along the lane.

6.1.4. **Planning Assessment:**

- The planning assessment appears to have been conducted using incorrect information provided by the applicant.
- The planning assessment appears to focus primarily on architectural and planning considerations.

- An assessment of daily traffic movements in and out of the applicant's property should also be considered.
- The potential hazards resulting from granting permission for the new entrance at this location need to be evaluated.

6.1.5. Supporting documentation lodged with the appeal includes a layout plan showing parking along both sides of Trafalgar Lane and the vehicular turning radius of the proposed new vehicular access.

6.2. Applicant Response

The Applicant's response is summarised below:

- Expresses disappointment with the Trafalgar Lane Residents Association for persisting in a disruptive and unneighbourly relationship with the new owner.
- Expected fair-mindedness after addressing all previous points raised by the Residents Association in their submissions to Dún Laoghaire-Rathdown County Council and obtaining permission from the Council.
- Considers that further delay caused by appealing to An Bord Pleanála is unwarranted, especially considering the urgent need for vehicular access for an elderly couple.
- The information regarding turning the vehicle was based on the Lexus manual and suggests that the residents may want to take up any issues with Lexus.
- Contends that the information from Lexus is correct and notes that the applicant's current car model should not dictate the long-term feasibility of access, as smaller cars are becoming more common.
- Rejects the notion that the lane is one-way, emphasising that it is a cul-de-sac where cars can legally go up and down in both directions.
- Submits that cars parked outside the mews houses would not obstruct access to No. 4 and cites the example of large removal lorries parking outside their house during the move without any obstruction.
- Points out that there is sufficient space available on the southern side of the lane for visitors' cars to park daily, as acknowledged by the appellants, but disputes

their "marked-up drawing" that shows parking where it is not possible (referred to photos attached in the submission).

- Notes the appellants' acceptance of visitors parking in the lane but objects to the applicant accessing their own home, questioning the reasonableness of this stance.
- Observes that the substance of the appeal seems to revolve around implied ownership and denial of right of way.
- States that there is no evidence of ownership indicated by the relevant folio maps of Trafalgar Lane, providing an attached map as support.
- Explains that the applicant's solicitor examined the right of way issue prior to registering ownership and provides attached images from the Indenture as evidence.
- Consulted the solicitor again for confirmation, and the solicitor's advice states the following:
 - The occupier of 4 Belgrave Square North has a legal right of access over Trafalgar Lane.
 - This right is granted by a Deed of Lease dated March 22, 1873, between John Trew Grey and William Donovan, who became the owner of 4 Belgrave Square North.
 - The lease specifically grants the right of passage over the stable laneway, which serves as the rear boundary of the property.
 - The right of access was granted for a term of 900 years from 1st May, 1872.
 - The applicant has a legal right to use the laneway to access the rear of their property, and it is reasonable to assume that there was a gate at the rear of the property from the laneway.
 - Acknowledges that Trafalgar Lane may be a private lane, not owned by the Local Authority.
 - However, emphasises that the applicant's legal right to access the rear of their property supersedes any claim by the objectors to maintain it as a private lane.

- States that the objectors' concerns about the lane being blocked by parked cars may or may not be legitimate, but parked cars cannot impede the applicant's right of access to the rear of their property, as granted in the aforementioned lease.
- Expresses hope that the efforts to delay access to the rear of the applicant's home, based on potentially vexatious, frivolous, inaccurate, or unsubstantiated grounds, can be swiftly resolved through the assessment by An Bord Pleanála.

6.2.1. Appendices lodged with the applicant's response include the following;

- Photographs of the Lane and surrounding area.
- Folio Map
- Indenture document

6.3. **Planning Authority Response**

6.3.1. The Board is referred to the previous Planner's report. The Planning Authority considers that the grounds of appeal do not raise any new matter which would justify a change in its decision.

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

7.1.1. Having examined the application details and all other documentation on file, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows;

- Vehicular Access, Sightlines & Traffic Congestion
- Procedural Issues

- Land Ownership & Parking Rights
- Appropriate Assessment

I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. Accordingly, the issues for consideration are addressed below.

7.1.2. **Vehicular Access, Sightlines & Traffic Congestion**

7.1.3. The Appellants object to the proposed development on the grounds of vehicular access, sightlines, and congestion. They submit that Trafalgar Lane experiences frequent congestion due to parked cars and the absence of a turning area. Daily parking by visitors along the southern side of the lane, attracted by its proximity to the sea and other amenities, exacerbates the congestion issue. It is submitted that the lane is often reduced to a single carriageway during weekends and at the specific location in question. The Appellants highlight the difficulty in manoeuvring vehicles on the lane due to the lack of a turning area. They contend that the Applicant has not adequately demonstrated the safe entry and exit of cars from the proposed new entrance. The provided drawing indicates a turning arc that does not align with recognised good practice, as it is smaller than the standard dimensions and assumes no cars parked alongside the southern boundary, which is a regular occurrence. The Appellants further assert that the proposed development would compromise sightlines, particularly when cars are parked on both sides of the lane, posing risks to pedestrians and vehicles traversing the area. The Appellants put forward the importance of assessing daily traffic movements in and out of the applicant's property, urging a thorough evaluation of the impact on traffic patterns and potential congestion in the surrounding area.

7.1.4. During the site inspection, I observed that Trafalgar Lane is a straight cul-de-sac single-carriageway lane, which the Appellant claims to be private. At the time of inspection on a weekday morning, there was no apparent parking congestion along the lane, although cars were parked on both sides. I also noted that some dwellings along the northern side of the lane have placed plant containers and outdoor furniture along the road edge, preventing parking in those areas. Furthermore, I noted the

presence of several double-door access gates along the rear boundaries of dwellings on the southern side of Trafalgar Lane.

7.1.5. The proposed vehicular entrance consists of 3m wide double access doors. The submitted 'Rear Vehicular Access' Layout Plan depicts the gates as inward-opening and shows the lane width as 7.6m, measured from the rear northern boundary of the subject site to the edge of the footpath along the northern side of the lane. The plan indicates a 6m turning radius for vehicles entering or exiting the site through the proposed access. The Appellant rightly points out that the Layout Plan does not illustrate any vehicle parked on the southern side of the lane within the 6m turning radius. However, it should be noted that the plan also does not show the observed plant containers and other furniture along the northern edge of the lane.

7.1.6. Section 12.4.8 of the Dun Laoghaire Rathdown County Council Development Plan 2022-2028 refers to 'Vehicular Entrances and Hardstanding Areas' and sets out the following requirements for ensuring pedestrian and traffic safety.

Vehicle entrances and exits shall be designed to avoid traffic hazard for pedestrians and passing traffic. Where a new entrance onto a public road is proposed, the Council will have regard to the road and footway layout, the traffic conditions on the road and available sightlines and will impose appropriate conditions in the interest of public safety. In general, for a single residential dwelling, the maximum width of an entrance is 3.5 metres.

And

Proper provision shall be made for sightlines at the exit from driveways in accordance with the requirements in DMURS, and as appropriate to the particular road type, and speed being accessed.

7.1.7. While Trafalgar Lane is a private lane, not subject to the aforementioned requirements along a public road, it is important to consider the guidelines outlined in the Design Manual for Urban Roads and Streets, 2019 (DMURS), in the interest of traffic and pedestrian safety.

7.1.8. Section 4.3.3 of DMURS refers to 'Corner Radius' and states that 'Where design speeds are low and movements by larger vehicles are infrequent, such as on Local streets, a maximum corner radii of 1-3m should be applied'. Considering the context of Trafalgar Lane as a cul-de-sac with a 5km speed limit and infrequent vehicle

movements, I am satisfied that the turning radius provided for the proposed vehicular access is acceptable in this instance.

7.1.9. It is worth noting that the Council's Transportation Section did not submit a report on this application. However, reference can be made to a previous case (P.A. Ref. D03A/0129 / ABP Ref. PL06D.202690) where permission was granted on appeal for a similar vehicular access gate at neighbouring dwelling No. 5 Belgrave Square. The Planning Inspector's report acknowledged that the proposed development did not contribute to cumulative on-street parking problems or intensify use. It further noted that the lane was wide enough to accommodate parked vehicles without obstructing traffic, with good visibility and low vehicle speeds. Additionally, any maintenance of the lane was considered a private matter rather than a planning requirement.

7.1.10. Taking into account the previously permitted vehicular access at the neighbouring property and the presence of similar double-door access gates along the rear boundaries of dwellings on the southern side of Trafalgar Lane, it is my view that the proposed development would not create a traffic hazard or set an undesirable precedent for future similar developments along the lane. Furthermore, given that the proposal would provide 1 no. car parking space in the rear garden of the dwelling, I do not consider an assessment of daily traffic movements in and out of the applicant's property is warranted, as suggested by the Appellant.

7.1.11. In summary, based on the observed conditions, compliance with relevant guidelines, and the precedent set by previously permitted developments, it is my view that the proposed development's impact on vehicular access, sightlines and traffic congestion along Trafalgar Lane would be minimal and would not present significant concerns from a traffic and pedestrian safety perspective. I recommend, therefore, that the proposed development is not refused permission on this grounds of appeal.

7.1.12. **Procedural Issues**

7.1.13. The Appellants object to the proposed development on the grounds that the Applicant provided incorrect and misleading information during the planning application process. It is submitted that the Applicant did not clearly state their intention to apply for a vehicular entrance in the initial planning application, instead referring to a timber double 'access' door. Although the planning authority requested further information to address this issue, the Applicant submitted additional materials, including a re-

advertisement of the application, confirming their intention for a vehicular entrance onto Trafalgar Lane. However, concerns are raised regarding an additional plan drawing titled "Drwg Rear Vehicular Access," which is considered incorrect and misleading. Notably, the drawing indicates a width of 7.6 meters for the lane but fails to account for the presence of a pedestrian path in front of the mews houses opposite numbers 15, 16, and 17 Trafalgar Lane. Moreover, the drawing inaccurately suggests a two-way flow of traffic on the lane, which contradicts the actual conditions of the lane. These grounds of appeal highlight significant issues related to the accuracy and clarity of the information provided during the planning application process, particularly concerning the proposed vehicular entrance and the accompanying plan drawing.

7.1.14. Having regard to the aforementioned "Drwg Rear Vehicular Access", which was submitted by way of further information response, I note that the drawing depicts the lane width as 7.6m, measured from the rear northern boundary of the subject site to the edge of the footpath along the northern side of the lane. It also clearly demarcates the front wall of the adjoining property on the northern side of the lane and includes the 6m turning radius for vehicles entering or exiting the subject site. While the drawing shows a car vehicle along the northern side of the lane, it is my view that it is presumptuous to suggest that it depicts a two-way flow of traffic on the lane.

7.1.15. As detailed in Section 7.1.2 above and in the Planning Authority report, the nature of parking on both sides of the lane is noted. On this basis, I do not consider the submitted drawings to be misleading. It should be noted that the accuracy of drawings submitted with a planning application is a validation issue which is a function of the Planning Authority. I am satisfied that the concerned party had the opportunity to raise this issue during their representation to the Planning Authority, and the Planning Authority conducted a thorough examination of the proposed development. The fact that the Planning Authority requested further information to address limited information demonstrates their commitment to a comprehensive assessment of the proposal.

7.1.16. Taking into account the discrepancies in the drawings submitted, such as the absence of a parked vehicle on the southern side of the lane within the 6m turning radius and the observed presence of plant containers and other furniture along the northern edge of the lane, located opposite or adjacent to the site, these factors have been duly considered in this assessment. Based on this consideration, it is my view that the

proposed development should not be refused permission in relation to this specific issue.

7.1.17. Land Ownership & Parking Rights

7.1.18. The Appellant raises concerns regarding the ownership and use of Trafalgar Lane and parking issues along the lane. They submit that Trafalgar Lane is not a road adopted by the Local Authority and that the residents of the mews houses on Trafalgar Lane rightfully own the northern side of the lane for parking their vehicles. The absence of parking rules on the lane allows for unrestricted parking. However, the Appellants contend that cars parked in front of the mews houses would obstruct the entry and exit of a vehicle from No. 4 Belgrave Square. Furthermore, the Appellants assert that the Applicant has not demonstrated any legal entitlement, as per their lease terms, to use the lane for vehicular purposes. It is submitted that granting planning permission for the new entrance would therefore contravene the terms of their lease. The Appellants emphasise that suitable parking options exist for the applicant on Belgrave Square. The Residents Association submit that the residents of the mews houses on Trafalgar Lane refuse permission to the applicant to trespass and/or use the lane for vehicles.

7.1.19. The applicant contests this ground of appeal, as detailed in Section 6.2 above.

7.1.20. Regarding the issue raised, Section 5.13 of the Development Management Guidelines (2007) addresses 'Issues relating to title to land' and clarifies that the planning system is not designed to resolve disputes about title to or rights over land, which are matters to be resolved in the Courts. The Guidelines advise that when there is uncertainty about the legal title of the applicant, the Planning Authority may still decide to grant permission. However, a grant of permission does not automatically entitle a person to carry out any development, as stated in Section 34(13) of the Planning and Development Act 2000 (as amended).

7.1.21. Taking into account the above considerations and the absence of absolute certainty regarding the legal ownership and right-of-way use of Trafalgar Lane, it is my view that it would be inappropriate to refuse permission for the proposed development solely

based on these grounds. Therefore, I recommend that this grounds of appeal should not be upheld in light of the above-mentioned guidelines and legal provisions.

7.1.22. Appropriate Assessment

7.1.23. Having regard to the nature and modest scale of the proposed development, the location of the site within a fully serviced urban environment, and the separation distance and absence of a clear, direct pathway to any European site, no Appropriate Assessment issues arise, and it is 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 granted, subject to conditions, for the reasons and considerations below.

9.0 Reasons and Considerations

9.1.1. Having regard to the zoning of the site, the pattern of development in the vicinity of the site, the nature and extent of the proposed development, and the provisions of the Dun Laoghaire Rathdown County Council Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not set an undesirable precedent for similar developments in this architectural conservation area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 29th day of April 2022, 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:</p>
2.	<p>(i) The vehicular entrance shall be a maximum of 3.5 metres wide.</p> <p>(iv) Any gates for the vehicular entrance shall open inwards and not out into the public domain.</p> <p>Reason: In the interest of traffic safety and the proper planning and development of the area.</p>
3.	<p>Drainage arrangements, for the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
4.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street is kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining road, the said cleaning works shall be carried out at the developer's expense.</p> <p>Reason: To ensure that the adjoining roadway is kept in a clean and safe condition during construction works in the interests of orderly development.</p>
5.	<p>The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 1400 hours on Saturdays and not at all on Sundays and</p>

	<p>Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of adjoining property in the vicinity.</p>
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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.

Brendan Coyne
Planning Inspector

06th July 2023