



An  
Bord  
Pleanála

## Inspector's Report ABP315875-23

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| <b>Development</b>                  | Retention of raising boundary walls,<br>widening of vehicular entrance,<br>vehicular gates and associated works. |
| <b>Location</b>                     | 211 Vernon Avenue Clontarf, Dublin 3   |
| <b>Planning Authority</b>           | Dublin City Council  |
| <b>Planning Authority Reg. Ref.</b> | 5269/22.   |
| <b>Applicant(s)</b>                 | Ian McKenna  |
| <b>Type of Application</b>          | Retention  |
| <b>Planning Authority Decision</b>  | Refuse   |
| <b>Type of Appeal</b>               | First party v. refusal   |
| <b>Appellant(s)</b>                 | Ian McKenna  |
| <b>Observer(s)</b>                  | None   |
| <b>Date of Site Inspection</b>      | 29/4/2023.   |
| <b>Inspector</b>                    | R. McLaughlin  |

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## **1.0 Site Location and Description**

- 1.1. The subject site is located on the northern side of Vernon Avenue, northeast of the junction of Vernon Avenue and Grosvenor Court in a mature residential area in the suburb of Clontarf, c. 4km northeast of Dublin city centre. Vernon Avenue is an L shaped road extending from the coast northwards and then turns west to connect to Castle Avenue. The entrance to the Central Remedial Clinic is located approximately 52 m southeast of the site on the opposite side of the road.
- 1.2. The section of Vernon Avenue where the subject site is situated is characterised by detached houses in a variety of styles with large front gardens on a similar building line. The boundary treatments vary but are largely similar front boundary walls c. 0.9 m high, with a variety of landscaping treatments behind. The subject site contains a detached two storey house and is at the western end of four very similar houses on the same building line. The other three houses to the east have a common 0.930 m high front boundary wall with 1.55 m high capped piers and the same style of vehicular and pedestrian gates. The existing front boundary has been raised to 1.77 m high with 2 m high piers, a 3.5 m widened vehicular access, a solid sliding gate and a new relocated pedestrian access and solid gate, 1.705 m high.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of retention of:
  - (i) works that include raising of the existing boundary walls and widening of vehicular entrance fronting onto Vernon Avenue.
  - (ii) installation of automated vehicular gates,
  - (iii) new render finish with stone capping.

The proposal also includes all associated landscaping, boundary treatment, site and engineering works necessary to facilitate the development.

Not specified in the public notices but included in the drawings is the retention of the relocation of the front pedestrian gate to the east of the site and the creation of a 2 m high pillar to the east of the gate replacing a 0.9 m boundary wall which abutted the

neighbouring wall of the same height and design. The works above have been carried out and are in situ.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Permission was refused on 26th January 2023 for one reason.

*“1. The front boundary wall including pillars and gates, which at 2 metres are excessive in height, result in reduced sightlines and poor visibility for drivers exiting the property across a public footpath. The development proposed to be retained would, therefore, endanger public safety by reason of traffic hazard. Furthermore, the retention of a 3.5m vehicular entrance exceeds the maximum standard of 3.0m set out under Appendix 5 of the Dublin City Council City Development Plan 2022 – 2028. The development proposed to be retained would, by itself and cumulatively, set an undesirable precedent for further similar development in the vicinity and would be contrary to the proper planning and sustainable development of the area”.*

#### **3.2. Planning Authority Reports**

- 3.2.1. Planning Reports

- 3.2.2. The Planning Report dated 25/01/23 refers to the historical permissions to grant permission for the demolition of existing detached bungalow and erect two detached 2 storey houses. The case Planner recommended that permission be refused for a single reason relating to the excessive height of the front boundary that would result in reduced sightlines and poor visibility for drivers exiting the property. The recommendation is in line with the recommendation of the internal Transportation Planning Division (see below). The case Planner further considered the vehicle entrance proposed for retention was excessive in width and would not be consistent with the requirements for vehicle entrances as set out under the provision of the Dublin City Development Plan 2022-28.

- 3.2.3. The Planning report raised an issue with the address.

#### **3.3. Other Technical Reports**

3.3.1. Drainage Division report 21/12/2022

No objection.

3.3.2. Transportation Planning Division Report 10/1/2023

PA Ref: 2916/21 (ABP Ref PL29S.311222) is referred to (detailed below) in relation to a refusal by the Board in Sandymount for similar development. The proposed retention is considered to contravene with the relevant standards in section 4.3.1 of Appendix 5 in the City Development Plan where in single residential dwellings, the vehicular opening shall be at least 2.5 metres, or at most, 3 metres in width and shall not have outward opening gates. It is recommended that permission be refused due to the impact on the existing vehicular entrance resulting in poor visibility and reduced sightlines, thereby creating a traffic safety hazard.

## 4.0 Planning History

4.1.1. There is no relevant recent planning history on the subject site.

4.1.2. ABP 303015-18 permitted a single storey rear extension to the neighbouring property to the west 213 Vernon Avenue.

4.1.3. Dublin City Council References 1859/22, 2581/21, 4020/20, 1622/18, 2638/18 and 2530/17 have been raised in the appeal relating to permission or retention granted for widening vehicular accesses in the Clontarf area.

4.1.4. ABP Ref PL29S.311222 (Plan ref: 2916/21) is referred to in the planning report and Transport Planning Division report. The Board upheld the decision of the Planning Authority and refused permission for retention of raising height of the existing boundary wall with timber fencing, raising height of existing plastered gateway piers and installation of sliding gate at 75A Sandymount Road on 23/03/2022.

## 5.0 Policy and Context

### 5.1. Development Plan

5.1.1. The Dublin City Development Plan 2022-2028 (CDP) applies. The site is zoned Sustainable Residential Neighbourhoods Land-Use Zoning Objective Z1: 'To protect, provide and improve residential amenities' on zoning Map J.

- 5.1.2. Appendix 5, Section 4.3 - Planning 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.
- 5.1.3. Appendix 5, Section 4.3.1 includes *“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.”*
- 5.1.4. Appendix 5, Section 4.3.5 - Treatment of Front Boundaries. *“There are many different types of boundary treatment in existence. When considering any alterations, minimal interventions are desirable and proposals should aim to be complementary or consistent to others in the area which are of a high standard and in keeping with the overall character and streetscape. Vehicular entrances with splayed entrance walls or fences will not generally be permitted. All boundary treatment shall take cognisance of the need to provide adequate visibility”*. Section 4.3.5 also provides a list of considerations, the relevant are provided below:
- *“4. Low walls (without railings)*  
*There are usually two gate piers, one which can be moved back to provide for the extra entrance width and any hedge or shrub trimmed accordingly.”*
  - *“6. Brick or plastered concrete walls*  
*Existing gate piers should be duplicated, and replacement of plaster and brickwork should match the existing.”*
- 5.1.5. Section 4.3.6 - Landscape treatment of front gardens includes that the front boundary wall or fence should always be provided with a screen of ornamental small trees or hedging.
- 5.1.6. Several key design principles are provided in section 15.4.1, ‘Healthy Placemaking’. The relevant include:

- *Inter-relationship of buildings / dwellings, roads, pedestrian ways, neighbourhood centre facilities and local parks and green areas – active frontages and passive surveillance will be encouraged.*

## **5.2. Natural Heritage Designations**

5.2.1. None relevant.

## **5.3. EIA Screening**

5.3.1. Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, 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**

6.1.1. The grounds of appeal may be summarised as follows:

- The works proposed do not inhibit visibility and therefore does not represent a traffic hazard.
- The works are supported by precedents in the area and are in keeping with the pattern of development in the area. Several precedents for permission to widen access or retention of widened accesses are provided in the area namely, P.A. References 1859/22, 2581/21, 4020/20, 1622/18, 2638/18 and 2530/17.
- The works are considered minor in scale and not considered to have any significant negative impacts either visually or on the public safety of the area.

The increase in the width of the vehicle or entrance is considered to enhance access to the site providing for improved entrance and egress.

- The application for retention was lodged with Dublin City Council prior to the adoption of the Dublin city development plan 2022 - 2028 being adopted on the 14th of December 2022. Appendix 5 of the CDP 2016-2022 plan is referred to. It is submitted that as the works took place under 2016 - 2022 CDP that the development was consistent with the provisions of the earlier plan. It is submitted that the planning report refers to guidance on vehicular entrances which allows up to 3.6 metres in width.

## **6.2. Planning Authority Response**

No response.

## **6.3. Observations**

None.

## **6.4. Further Responses**

None sought.

## **7.0 Assessment**

7.1.1. Having examined the application and appeal documentation on file and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and in the Planning Authority reason for refusal and also that a substantive issue relating to visual impact arises. Visual impact is raised in the appeal by the first party but neither the planning report nor the reason for refusal specifically address this issue. Visual impact may be considered a 'New Issue' in the appeal by the Board and the Board may wish to circulate this issue to parties prior to decision.

7.1.2. The main issues, therefore, are as follows:

- Principle of development
- Traffic safety



- Visual Impact - Height and scale
- Precedent permissions
- Procedural matters

## 7.2. Principle of development

The appeal site is located on a site zoned Z1: Sustainable Residential Neighbourhoods where the objective is “to protect, provide and improve residential amenities”. Extensions and alterations for residential purposes are acceptable in principle. Alterations are subject to the acceptance or otherwise of site specific / other policies within the CDP including traffic safety and visual amenity which are dealt with below.

## 7.3. Traffic safety

Permission was refused as it was considered that the development would result in reduced sightlines and poor visibility for drivers exiting the property across a public footpath.

The concerns raised by the Transportation Planning Section about the height of the front boundary wall from a visibility point of view, with regard to pedestrians using the footpath crossing the vehicular entrance are reasonable. The previous boundary was 0.9 m between the pillars and is now increased to 1.705 m, nearly double the height. The pillars on either side of the vehicular entrance have been increased to 2 m. I consider that the proposed front boundary to be retained significantly reduces sightlines from what was previously in place and raises traffic safety concerns in this location. Refusal is recommended.

## 7.4. Visual Impact – Height and scale

- 7.4.1. The Planning Authority consider in the reason for refusal, that the front boundary wall including pillars and gates to be retained at 2 metres is excessive in height. The appellant considers that the works are considered minor in scale and not considered to have any significant negative impacts either visually or on public safety. Neither the planning report nor the reason for refusal address specifically the visual impact, however, it is mentioned in the appeal by the first party. I am satisfied as the first party have raised the issue and as I consider it pertinent to the appeal which is

assessed de novo, visual impact should be specifically addressed. The Board may, however, wish to raise visual impact as a new issue or circulate this to the parties,

- 7.4.2. The section of Vernon Road at issue is characterised by single or two storey houses with front boundaries of mature planting or boundary walls of a similar height with the exception for one house close to the Castle Avenue junction. The opposite side of the road demonstrates a greater range of residential types including apartments and hospital use. The subject site is one of four similar houses which prior to the development to be retained had a uniform boundary height, scale and design. The houses to the west also have similar boundary heights and scale. In this regard, I consider that this streetscape section of Vernon Avenue benefits visually from a similar boundary treatment in terms of scale which also generally provides passive surveillance over the public domain.
- 7.4.3. The proposed boundary to be retained at 2 m high is considerably higher than what was on the site previously and higher than the boundary walls on the properties adjacent. The boundary to be retained at 2 m prevents any views into the front garden area from the footpath and any views out of the garden. Furthermore, the vehicular gate has been increased from 2.8 m wide to 3.5 m wide and from 1.245 m high (at the highest point) to 1.705 m high. The pillars have increased to 2 m from 1.55 m at the pointed pier cap previously on the site. The pedestrian gate has been shifted to the boundary with the property to the east and a 2 m high pillar replaced the 0.93 m boundary at that location common to both properties. The solid pedestrian gate has increased from a maximum height of 1.03 m to 1.7 m. The view of the house from the street and its setting is considerably limited and altered owing to the height, scale and design of the boundary to be retained as described above.
- 7.4.4. The development to be retained is a marked departure from the boundary treatment along this section of Vernon Avenue and if permitted would set a precedent for solid, 2 m high, street boundaries creating a significant change to the visual character of the area where set back houses are visually integrated with the street by front gardens and lower boundaries consistent with principles of healthy place-making.
- 7.4.5. The CDP provisions are outlined above. Section 4.3.5 provides where alterations are proposed to front boundaries, minimal interventions are desirable, and should aim to be complementary or consistent to others in the area, in keeping with the overall

character and streetscape. Considerations where alterations are proposed in Section 4.3.5 have not been adhered to. The proposed 2 m high front boundary is not complimentary or consistent with the neighbouring boundaries or the overall character of this section of Vernon Avenue. While the boundary that was removed was a typical design of its time, any proposed alterations should be complementary in height and scale to the neighbouring properties. Section 4.3.5 of the CDP was not raised in the planning/technical reports or appeal and if permission was refused on this ground, the Board may consider circulating the issue.

- 7.4.6. To conclude, in relation to visual impact, I consider that the proposed retention of boundary with the public footpath up to 2 m high as non-complementary and inconsistent with the existing boundaries along this section of Vernon Avenue and visually incoherent and detrimental to the overall character and streetscape. Further, it is considered that the inter-relationship of the house, garden and footpath is damaged by the development as constructed, as it visually severs the house and garden from the established mature streetscape and would set an undesirable precedent for similar development.

#### 7.5. Precedent permissions

- 7.5.1. The applicant points to several permissions where wider accesses were permitted and the Planning Authority point to a permission refused in Sandymount. This matter is interrelated with the procedural matter below, as in the previous development plan vehicular access up to 3.6 m was considered. The current plan states that the vehicular opening “shall be at most 3 metres” and as this is the relevant development plan, the current application shall be assessed against this plan and not the previous one. The term “shall” is a mandatory requirement in the CDP.
- 7.5.2. I consider that applications for widened accesses and increased boundary heights on Vernon Avenue and the surrounding road network should be considered within their local contexts as there are significant variations in the streetscape character. In this regard I do not consider that the scale of the proposed development is consistent with the neighbouring properties.

#### 7.6. Procedural matters

- 7.6.1. The appellant raises the issue that the retention application should be assessed under the previous City Development Plan as the works the subject of retention took

place in September 2022 when the previous plan was in place where gates up to 3.6 m were permitted. They also make the case the application was made before the adoption of the new plan. It may be noted that as the works took place without a grant of permission in September 2022, retention is now sought. The applicable development plan by which to assess the current retention application is the 2022-2028 CDP. There are no provisions to assess an application under a previous CDP and none have been provided by the appellant.

7.6.2. The appellant also refers to the Planning Report which refers to a local guidance leaflet on parking cars in front gardens. The leaflet precedes the current CDP and does not have a statutory context. I consider that the 2022-2028 is the applicable CDP to which the development must be assessed.

7.6.3. The case Planner raised a query in the planning report regarding the address. Having checked the address against the Eircode finder, I am satisfied that the address is correct.

## 7.7. AA Screening

7.7.1. Having regard to the modest scale of the proposed development, its location within an appropriately zoned and serviced area and the foreseeable emissions therefrom, I am satisfied that 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 refused.

## 9.0 Reasons and Considerations

1. The front boundary wall including gates and pillars to be retained up to 2 meters high are considered excessive in height, resulting in reduced sightlines and poor visibility for drivers exiting the property across a public footpath. The proposed development would therefore endanger public safety by reason of traffic hazard.

2. Appendix 5, section 4.3.5, of the Dublin City Council City Development Plan 2022 – 2028 provides that minimal interventions are desirable in alterations to the treatment of front boundaries and proposals should aim to be complementary or consistent to others in the area which are of a high standard and in keeping with the overall character and streetscape. Owing to the height, design, and scale, it is considered the development to be retained is visually incoherent with existing front boundaries in the vicinity and inconsistent with the character and streetscape of this section of Vernon Avenue. Furthermore, the retention of a 3.5 m vehicular entrance exceeds the maximum standard of 3.0 m set out under Appendix 5, Section 4.3.1 of the Dublin City Council City Development Plan 2022 – 2028. The development proposed to be retained would, by itself and cumulatively, set an undesirable precedent for further similar development in the vicinity and would be contrary to the proper planning and sustainable development of the area.

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Rosemarie McLaughlin  
Planning Inspector

11<sup>th</sup> May 2023