



An
Bord
Pleanála

Inspector's Report

ABP-316143-23

Development	Whether the installation of a boom barrier that will not be higher than 2 metres is or is not development or is or is not exempted development.
Location	Vernon Mews, Vernon Avenue, Clontarf, Dublin 3.
Declaration	
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	0042/23
Applicant for Declaration	Vernon Mews Owners Management CLG, C/o Michael McAdam
Planning Authority Decision	Is not Exempted Development
Referral	
Referred by	Vernon Mews Owners Management CLG, C/o Michael McAdam
Owner/ Occupier	Vernon Mews Owners Management CLG
Observer(s)	None

Date of Site Inspection

22nd December 2023

Inspector

Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject referral site is located at Vernon Mews, on the western side of Vernon Avenue, Clontarf, Dublin 3. Vernon Mews is an established residential development which is accessed via a Cul de Sac road from Vernon Avenue positioned between house no's 34 and 34B Vernon Avenue.
- 1.2. The subject referral relates to the installation of 2 metre high, automatic traffic boom barrier at a point 21 metres to the west of the intersection of the Cul De Sac access road and Vernon Avenue. A previous operational barrier has been removed and is no longer in use (stated by the Referrer to be on foot of an Enforcement Notice). There is a low-profile speed ramp installed to the immediate east of the original traffic boom barrier location. Other relevant installations include an associated, 1.2 metre high and currently disused metal pillar, which housed the boom arm and is now enclosed within a black plastic covering.
- 1.3. There is an existing brick paved c.1 metre-wide footpath positioned along the southern side of the Cul de Sac road proximate to the original barrier location and a total of 6 no. parallel parking spaces positioned to the rear (west) of the original barrier location on the northern side of the Cul De Sac road. There is no footpath in place along the northern boundary of the Cul De Sac road. The surfaced access road width ranges from an approximate maximum width of 5.9 metres at the intersection with Vernon Avenue to the east to approximately 3.5 metres in width (including footpath) at a pinch point at the proposed traffic boom barrier location.

2.0 The Question

- 2.1. The question the subject of the referral before the Board is: -
 - *That the installation of a barrier to our development in Clontarf, Dublin 3 is exempt from planning permission.*
- 2.2. I propose to reword the question slightly, as follows:
 - *Whether the installation of a boom barrier that will not be higher than 2 metres is or is not development or is or is not exempted development.*

3.0 Planning Authority Declaration

3.1. Declaration

3.1.1. On 02/02/2023, a request for a declaration in accordance with the provisions of Section 5 of the Planning and Development Act, 2000 to 2023, on the above question, was received by Dublin City Council. The request was made by Michael McAdam on behalf of Vernon Mews Owners Management CLG.

3.1.2. On 01/03/2023, notification of declaration was made by Dublin City Council stating that:

“In pursuance of its functions under the Planning and Development Act 2000 (as amended), Dublin City Council has by order dated 01-Mar-2023 decided to issue a Declaration that the proposed development is NOT EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Act 2000 (as amended) for the following reason:

- It is recommended that the applicant be advised that proposed boom barrier structure would constitute development as defined by Section 3 (1) of the Planning & Development Act 2000 (as amended), and also being deemed a traffic hazard based on information available would not be exempted development as per Article 9 (1) (a) (iii) of the Planning & Development Regulations 2001 (as amended).”*

4.0 Planning Authority Reports

4.1.1. Planning Report

The Planner’s Report serves as the basis for the declaration decision. It includes the following points:

- If the boom barrier does not extend at maximum height to over 2m at above ground level as indicated by the applicant then the proposal would seemingly benefit from the exemption under Class 9, Part 1, Schedule 2 of the P&D Regs 2001 (as amended). There is however a concern that the proposal may run afoul of some of the other de-exemptions under Art.9.

- The Transport Planning Division considered that the proposal would constitute a traffic hazard, and as such the proposal would not be exempted development as per Art. 9 (1)(a)(iii) of the Planning & Development Regulations 2001(as amended).
- It is recommended that the applicant be advised that proposed boom-barrier structure would constitute development as defined by Section 3(1) of the Planning & Development Act 2000(as amended), and also being deemed a traffic hazard based on information available would not be exempted development as per Article 9 (1)(a)(iii) of the Planning & Development Regulations 2001(as amended).

4.1.2. Other Technical Reports

The Report from the Transportation Planning Division informs the recommendation of the Planner. It includes the following points:

- Based on the information provided, it is clear that the proposal is for the erection of a boom structure on land. Based on the provisions under Section 3(1) and definition under Section 2(1) of The Act, the proposed is considered development.
- There is no clear Condition of Planning to be inconsistent with any use specified in a permission.
- There is no obstruction of any public right of way.
- While there is scope for exemption to erect any gate or gateway under The Regulations, the proposed erection of a traffic barrier measure in this particular case, on a restrictive backland site would create a traffic hazard for road users and would not therefore be exempted in this instance.

5.0 Planning History

5.1. Planning History

At Vernon Mews

- 5.1.1. **3277/19:** The removal of previously approved Bollards at the junction of Mews Lane 2 and the main development road. (Relating to Planning Reg. Ref. No.: 2401/13 & ABP.PL29N.242866 and 3600/17). **GRANTED** on 24/10/2019 (6 no. conditions).

- 5.1.2. **2364/19:** Retention of works to Block F. Works to Block F, a detached two storey 3-bedroom house. **GRANTED** on 23/05/2019 (6 no. conditions).
- 5.1.3. **3600/17:** Amendments to Reg. Ref. 2401/13 / ABP PL29N.242866 for demolition of existing single storey dilapidated structure and construction of 17 no. dwellings houses, including a new access road from Vernon Avenue. **GRANTED** on 13/11/2017 (7 no. conditions).
- 5.1.4. **2401/13 (Appeal Ref. No. ABP. 242866):** Demolish building and construct 17 no. dwellings. **GRANTED** on 12/06/2014 (19 no. conditions).
- 5.1.5. **4245/09 (Appeal Ref. no. 237457):** Construction of 24 no. dwellings (previously granted under 4754/06). **REFUSED** on 07/01/2011 for 2 no. reasons relating to i) *Overdevelopment/ Inadequate Car Parking/ amenity Open Space/ Poor Standard of Residential Amenity for future occupant* and ii) *Injurious to residential amenity.*

5.2. Planning Enforcement History

- 5.2.1. **E0527/21:** Erection of car barrier
- 5.2.2. **E0722/18:** Non-compliance with condition 7 of 3600/17
- 5.2.3. **E1006/18:** Parking spaces on public lane

6.0 Relevant Referrals

- 6.1. **RL2695:** On the question of whether the installation of a lifting barrier in the car park is or is not development or is or is not exempt development, the Board decided (2010) that the installation of a lifting barrier in the car park is development and is exempted development, as follows:

- the installation of the lifting barrier in the car park constitutes works under section 2(1) of the Act and the carrying out of the said works constitutes development within the meaning of section 3(1) of the Act;
- the lifting barrier is a gate within the scope of the exempted development provisions of Class 9, Part 1, Schedule 2 of the Planning and Development Regulations, 2001 and that it complies with the conditions and limitations pertaining to Class 9, Part 1, Schedule 2 of the said 2001 Regulations;

- the lifting barrier would not endanger public safety by reason of a traffic hazard or be an obstruction of road users; and
- the lifting barrier would not materially affect the implementation of the traffic circulation system forming part of a permission granted under Part III of the Act.

6.2. **RF1002:** On the question of whether the erection of car parking barriers is or is not development or exempted development, the Board decided (2001) that the erection of car parking barriers is development and is exempted development, as follows:

- the erection of the barriers constitutes works on land which come within the meaning of “development” in section 3 of the 1963 Act,
- the parking barriers constitute gates less than two metres in height which come within the scope of class 8 Part I of the Second Schedule to the Local Government (Planning and Development) Regulations, 1994, and
- the barriers do not endanger public safety by reason of traffic hazard and do not, therefore, come within the scope of article 10 of the 1994 Regulations.

7.0 Policy Context

7.1. Dublin City Development Plan, 2022 to 2028

7.1.1. The subject site is located within the development plan boundary for Dublin City as set out in the Dublin City Development Plan, 2022 to 2028. The location of the boom barrier is indicated to be on the access road from Vernon Avenue which serves the existing residential development at Vernon Mews.

7.1.2. The immediately surrounding residential properties and associated curtilages are all ascribed land use zoning ‘Z1 – *sustainable Residential Neighbourhoods*.’

7.2. Natural Heritage Designations

7.2.1. The referral site does not form part of, it does not adjoin, nor is it located within close proximity to any designated Natura 2000 site.

- 7.2.2. The referral site is not within or directly adjacent to any designated Natura 2000 site. The South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) and the North Dublin Bay proposed NHA (Site Code: 000206), are located to the south, at a distance of circa 226 metres at its closest point.
- 7.2.3. North Bull island SPA (Site Code 004006) and North Dublin Bay SAC (Site Code 000206) are located to the east, at a distance of 902 metres.
- 7.2.4. The North-West Irish Sea SPA (Site Code 004236) is located circa 3.5 km to the south-east.

7.3. EIA Screening

- 7.3.1. The referral relates to the installation of a boom barrier that will not be higher than 2 metres. This type of development does not constitute an EIA project and so the question as to whether or not it might be sub-threshold does not arise.

8.0 The Referral

8.1. Referrer's Case

- 8.1.1. The Referrer disagrees with the declaration decision of the Local Authority that the installation of a boom barrier (that will not be higher than 2 metres) is development and is not exempted development. In this regard, the Referrer contends that the works do not represent a traffic hazard.
- 8.1.2. The Referrer confirms that a boom barrier was previously erected and that this has since been removed on foot of an Enforcement Notice. The road access which serves the Vernon Mews development is stated to be a private and adjacent residents have no right of access through this private road. The Referrer states that the proposed boom-barrier would be less than 2 metres in height when in the upright position.
- 8.1.3. The Referrer considers that the works will not create a traffic hazard by reason of:

- *The location of the boom:*

The boom barrier location is set-back 21 metres from Vernon Avenue with sufficient space for multiple vehicles to pull in off the street before they meet the barrier. The

works are located on a private residential Cul De Sac and there is no impact on permeability or the free movement for pedestrians and cyclists.

- *The location of Vernon Avenue:*

There is no traffic hazard caused by vehicles entering and exiting Vernon Mews as passing traffic travelling on Vernon Avenue have long clear sight lines of the entrance point to Vernon Avenue from Vernon Mews. Vernon Avenue is elongated and straight. The street (Vernon Avenue) has a slow speed limit of 50 kph and is primarily used for local traffic access.

- *Existing access gates on Vernon Avenue recently permitted by DCC:*

Reference is made to an approved planning permission for gates at 48 to 50 Vernon Avenue, located 65 metres to the north of the entrance to Vernon Mews, which allow rear access to properties along Vernon Avenue and Belgrove Road. These gates are adjacent to Vernon Avenue unlike the proposed boom barrier. Given this precedent, the Referrer questions the decision of the Local Authority that the subject proposal results in a traffic hazard. Reference is also made to a new development of 5 semi-detached homes, called Castle Gate, located at the rear of 27/29 Kincora Road, where an entrance gate is stated to have been permitted by the Local Authority.

- *Previous Experience of barrier at Vernon Mews:*

When a barrier was previously in place for a period of 12 months, the Referrer considers that this was an extremely positive experience, that no public complaints were received that the boom created a traffic hazard during that time and that no such complaints were received by Clontarf Garda.

- *No Evidence Provided by the Local Authority to Support their case that this will be a traffic hazard:*

The Referrer considers there is no evidence provided by the Local Authority to support their case that the proposal will create a traffic hazard.

Free entry by vehicles into a shared space is considered by the Referrer to be a greater traffic hazard. The Referrer considers that not allowing a traffic barrier creates a traffic hazard as the shared space is being used as an open space for local children, pedestrians and dog walkers from the wider neighbourhood.

- 8.1.4. In reference to the parent planning permission, reg. ref. no. 2401/13, the Referrer quotes a statement that *‘there will be no changes to access currently enjoyed by any property adjacent to the site’*. In support of this point, the Referrer mentions the private status of the service road entering Vernon Mews and that the adjacent properties continue to enjoy full access to the rear of their properties through private existing gates that are private to them.
- 8.1.5. Regarding the status of the private road, the Referrer quotes from a response of the Transportation Department to an applicant of an adjacent development under planning file ref. no. 4009/17, inter alia *‘the road network of the adjacent development is private and is not in public charge.’*

8.2. Owner/ occupier’s response

- 8.2.1. None.

8.3. Further Responses

- 8.3.1. None.

9.0 Statutory Provisions

9.1. Planning and Development Act, 2000

9.1.1. Section 2: Interpretation

“**land**” includes any structure and any land covered with water (whether inland or coastal);

“**public place**” means any street, road, seashore or other place to which the public have access whether as of right or by permission and whether subject to or free of charge;

“**public road**” has the same meaning as in the Roads Act, 1993;

“**structure**” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and— (a) where the context so admits, includes the land on, in or under which the structure is situate,

“**works**” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or

proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

9.1.2. **Section 3: Development**

9.1.3. Section 3 (1) a) states “development” means, a) the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land, or (b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).

9.1.4. **Section 4: Exempted Development**

9.1.5. Section 4 1) provides that specified development shall be exempted development for the purposes of the Act.

9.1.6. Section 4(2) provides that the Minister may by regulations provide for any class of development to be exempted development for the purposes of the Act and, according to Section 4(2)(c):

“Regulations under this subsection may, in particular and without prejudice to the generality of paragraph (a), provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purposes being exempted development for the purposes of this Act.”

9.1.7. Section 32(2) states:

“A person shall not carry out any development in respect of which permission is required by subsection (1), except under and in accordance with a permission granted under this Part.”

9.1.8. Section 39(2) states:

“Where permission is granted under this Part for a structure, the grant of permission may specify the purposes for which the structure may or may not be used,”

9.2. **Planning and Development Regulations, 2001 to 2023**

9.2.1. Article 6 – Exempted Development

Article 6 1) states that Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of

the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

9.2.2. Article 9 - Restrictions on Exemptions

Article 9 1) states that:

Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(xi) obstruct any public right of way,

9.2.3. Schedule 2, Part 1 – Exempted Development – General

Column 1	Column 2
Description of Development	Conditions and Limitations
<p>Sundry works</p> <p>Class 9</p> <p>The construction, erection, renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway.</p>	<p>The height of any such structure shall not exceed 2 metres.</p>

9.3. Roads Act, 1993, as amended

9.3.1. Section 2 (1)

“Public Road” means a road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority;

...

“road” includes—

- (a) any street, lane, footpath, square, court, alley or passage,
- (b) any bridge, viaduct, underpass, subway, tunnel, overpass, overbridge, flyover, carriageway (whether single or multiple and whether or not designated for a particular class of vehicle), pavement or footway,
- (c) any weighbridge or other facility for the weighing or inspection of vehicles, toll plaza or other facility for the collection of tolls, service area, emergency telephone, first aid post, culvert, arch, gully, railing, fence, wall, barrier, guardrail, margin, F9[verge,] kerb, lay-by, hard shoulder, island, pedestrian refuge, median, central reserve, channelliser, roundabout, gantry, pole, ramp, bollard, pipe, wire, cable, sign, signal or lighting forming part of the road, and
- (d) any other structure or thing forming part of the road —
 - (i) used, or the use of which is reasonably required, for the safety, convenience or amenity of road users or for the construction, maintenance, operation or management of the road or for the protection of the environment, or
 - (ii) prescribed by the Minister;

10.0 Assessment

10.1. The question before the Board is

- *Whether the installation of a boom barrier that will not be higher than 2 metres is or is not development or is or is not exempted development.*

10.2. Is or is not development?

10.2.1. Having regard to the definitions set out under Section 2 of the Act, the boom barrier is a structure and the installation or erection of the said structure constitutes an act or operation of construction and therefore is considered to be “works”. The carrying out of works, i.e., the installation of the boom barrier constitutes “development” as defined under section 3 (1) of the Act.

10.3. Is or is not exempted development?

10.3.1. The Referrer submits that under Class 9 of Schedule 2, Part 1, of the Planning and Development Regulations, 2001 to 2023, a gate of less than 2 metres in height is exempted development subject to conditions that any gate would not create a traffic hazard. The Referrer contends that the said works do not create a traffic hazard and therefore constitute exempted development.

- Within or bounding the curtilage of a house

The boom-barrier is located along an access road which serves an established residential development. In my view, it is evident the boom-barrier is not within or bounding the curtilage of a house and therefore falls within a relevant location, as referenced in Class 9.

- Any gate or gateway

The Local Authority assessment, which is informed by a Report from the Transportation Department, notes that while there is no definition under the Planning Act or Planning Regulations as to what constitutes a ‘gate’ or ‘gateway’, an online dictionary source suggests the need for an existing boundary wall/ fence in order to avail of such a provision.

In determining similar previous Referral cases, the Board considered a lifting barrier/ parking barrier to be a gate, see Referral ref. no’s. RL2695 & RF1002. Having regard

to same, I am satisfied that the boom-barrier in this case can be considered to be a gate within the scope of Class 9.

10.3.2. Conditions/ Limitations

- The height of any such structure shall not exceed 2 metres.

The Local Authority assessment does not dispute the height of the barrier at 2 metres and refers to Figure 4 of the Referrers submission lodged as part of the Section 5 Declaration application. A height of 2 metres for the barrier when vertical is indicated on this said image. Figure 4 of the Referrers submission to the Board shows the same image and height of 2 metres for the barrier when vertical.

It is noted that the image shown in Figure 4 of the Referrers submission indicates a folding type barrier arm and that a dimension alongside indicates a height of 2 metres, when vertical. It is further noted that on the same page the Referrer mentions that the proposed boom barrier would be less than 2 metres high when it is in the upright position.

Therefore, in my opinion, the proposal before the Board relates to a boom barrier which is less than 2 metres in height when it is in the upright position. Having regard to same, I am satisfied that the proposal benefits from this element of exemption under Class 9 as the proposal does not exceed 2 metres in height.

10.3.3. Article 9, 1) Restrictions on Exemption

The relevant restrictions on exemption, as set out in Article 9 1) of the Planning and Development Regulations, 2001 to 2023, are, in my view, as follows:

- Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act, (See Article 9 1) a) i)),

The Local Authority Transportation Department consider there is no specific planning condition which seeks to ensure that the road be kept free of a gate or gateway or a means of a control barrier. The permissions referenced in the assessment are Reg. Ref. 2401/13 (ABP 242866), as amended by Reg. Ref. 3600/17, Reg. Ref. 2364/19 and Reg. Ref. 3277/19.

The Referrer is silent in relation to this issue.

I have reviewed the quoted permissions and the associated conditions pertaining to same and I agree with the assessment of the Local Authority that there is no specific condition which seeks to ensure that the road be kept free of a gate or gateway or a means of a control barrier.

Therefore, in my opinion, the proposed works do not contravene a condition attached to a permission under the Act and are not inconsistent with any use specified in a permission under the Act.

- *endanger public safety by reason of traffic hazard or obstruction of road users, (See Article 9 1) a) iii).*

The primary means of vehicular access to all dwellings within Vernon Mews is via the access road upon which the barrier is proposed to be located. This established traffic circulation arrangement was most recently approved under planning reg. ref. no. 3277/19. Under that said permission, a barrier is not shown on the proposed site layout drawing no. 17001-CRA-VA-ZZ-DR-A-31001, lodged as part of the planning application drawings. Similarly, a traffic barrier is not shown on any of the 3 no. respective Autotrack Analysis Drawings for SUV, Fire Tender and Refuse Vehicle turning movements lodged in response to the request for Further Information. Indeed, a barrier is not referenced throughout the said application.

I am satisfied that the proposals presented in the said drawings represent the approved traffic circulation system for the site and that the introduction of a boom barrier, as presented, will serve to materially affect the implementation of the said approved traffic circulation system forming part of the said permission.

Both the shared surface carriageway and the 6 no. car parking spaces, positioned to the west of the proposed barrier, are substandard in terms of width as per recommendations set out in the Design Manual for Urban Roads and Streets, 2013, as amended. The recommended standard width for a Local Street is 4.8 metres. A reduced shared surface carriageway width of 3.5 metres to the west of the barrier is below this standard and is not of sufficient width to accommodate two-way traffic. In my view, the addition of a traffic barrier serves to compound the restrictive nature of the street.

It is accepted the proposed barrier location 21 metres to the west of the intersection with Vernon Avenue can accommodate a number of vehicles to pull in before meeting the barrier. However, owing to the narrow and restricted nature of the street, which will be compounded by the presence of the barrier, and which does not readily facilitate turnabout movements, together with the lack of any clear priority at the barrier and minimal road signage, it is my view that vehicles which unwittingly enter the street and cannot gain entry via the traffic barrier will be forced to reverse onto Vernon Avenue. In my view, this reversing vehicle movement will result in a traffic hazard and obstruction for other road users, particularly for those using Vernon Avenue.

I do not share the view of the Referrer that evidence should be provided to support this conclusion.

Similarly, the 2 no. precedent cases, as cited by the Referrer, are not, in my view, directly comparable to the subject residential access road in terms of their configuration, function and frequency of use. I do not therefore consider there is any inconsistency in this regard in terms of the Local Authority assessment.

I do not share the view of the Referrer that not allowing the barrier will create a traffic hazard by reason of a conflict between passing cars and the use of the street as an area of open space by local children and the wider community. The service road has been designed to reduce traffic speeds and the referenced space designed as a shared surface.

In conclusion, I am satisfied the installation of the proposed boom barrier will endanger public safety by reason of a traffic hazard and will serve to obstruct other road users.

- obstruct any public right of way, (See Article 9 1) a) xi).

The Local Authority assessment refers to the submission from the Applicant and to the Dublin City Council Roads internal mapping which shows the relevant section of road, where the proposed barrier is intended to be located, to be in private ownership. It is on this basis that the Local Authority conclude there is no obstruction to a public right of way.

The Referrer considers the subject road to be a private road through which adjacent residents have no right of access. The Referrer further states that the adjacent properties continue to enjoy full access to the rear of their properties.

On the basis of the information presented, I am satisfied the proposed works do not obstruct a public right of way.

10.4. **Conclusion on Exempted Development**

10.4.1. Having regard to the foregoing, the installation of a boom barrier that will not be higher than 2 metres is development and is not exempted development.

10.5. Other matters

- Appropriate Assessment

10.6. 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.

11.0 **Recommendation**

11.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the installation of a boom-barrier that will not be higher than 2 metres is or is not development or is or is not exempted development.

AND WHEREAS Vernon Mews Owners Management CLG, C/o Michael McAdam requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 1st day of March 2023 stating that the matter was development and was not exempted development.

AND WHEREAS Vernon Mews Owners Management CLG, C/o Michael McAdam referred this declaration for review to An Bord Pleanála on the 31st day of July 2023:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

(a) Section 2(1) of the Planning and Development Act, 2000 to 2023.

- (b) Section 3(1) of the Planning and Development Act, 2000 to 2023.
- (c) Section 4 of the Planning and Development Act, 2000 to 2023.
- (d) Article 6(1) and Article 9(1) of the Planning and Development Regulations, 2001 to 2023.
- (e) Classes 9 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2023.
- (f) The pattern of development in the area.
- (g) The report of the Inspector.

AND WHEREAS An Bord Pleanála has concluded that

- a) the installation of a boom barrier that will not be higher than 2 metres is 'development' within the meaning of the Planning and Development Act 2000 to 2023;
- b) the boom barrier is a gate within the scope of Class 9, Part 1, Schedule 2 of the Planning and Development Regulations, 2001 and complies with the conditions and limitations of pertaining to Class 9, Part 1, Schedule 2 of the said 2001 Regulations;
- c) that the boom barrier would endanger public safety by reason of a traffic hazard and the obstruction of other road users and therefore, subject to Article 9 (1)(a)(iii), is not exempted development for the purposes of the Act;
- d) that the lifting barrier materially affects the implementation of the traffic circulation system forming part of a permission granted under Part III of the Act contrary to the provisions of Section 32 (2) of the Act.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning & Development Act, 2000 to 2023, hereby decides that the installation of a boom barrier that will not be higher than 2 metres is 'development' and is not 'exempted development'.

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.

Frank O'Donnell
Planning Inspector

19th January 2024