



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317296-23

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<b>Development</b>	Retention of existing widened entrance
<b>Location</b>	16, Oak Dene, Ballinclea Road, Killiney, Dublin, A96D4V2
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D23A/0192
<b>Applicant(s)</b>	Aideen and Brendan Mooney
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Grant Retention
<b>Type of Appeal</b>	First Party against a condition
<b>Appellant(s)</b>	Aideen and Brendan Mooney
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	14 <sup>th</sup> August 2023
<b>Inspector</b>	Joe Bonner

## 1.0 Site Location and Description

- 1.1. The site is located in Oak Dene, a u shaped residential cul-de sac of 42 no 2-storey terraced brick-clad detached houses located off Ballinclea Heights and c.100m south of Ballinclea Road in Killiney. The layout and design of the estate incorporates front gardens enclosed by block walls capped in brick with brick piers defining the vehicular entrance to each house. The entrances to several houses have been widened including No's 14, 36 and 37, gates have been installed on other entrances and two separate vehicular entrance points have been created at the three immediately adjacent houses to the site at No 17, No 18 and No 19 although the entrance points are c2.8m in width. The footpath has been dishd at the entrance points to each site and space has been provided to park more than one car in many of the front gardens, by paving over the front gardens, particularly on the same side of the road as the application site.
- 1.2. No. 16 is located on the northern side of the access road and is the third house from the corner in a row of eleven south west facing dwellings that face another row of detached houses on the opposite side of the road. The house types vary in design with the application site being the middle house of five similar houses incorporating a mix of dormer and two storey elements on the front elevations that included integrated garages.

## 2.0 Proposed Development

- 2.1. The proposed development comprises of:
- Retention of existing widened entrance from 2.8m to 4.997m
  - Permission for 1) extension of existing drop kerb. 2) all necessary works required to facilitate this development.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. A decision to grant retention permission and grant permission was issued by Dun Laoghaire Rathdown County Council on 16<sup>th</sup> May 2023, subject to the attachment of 4 conditions including Condition No 2 which states:

2. (a) The width of the vehicular entrance proposed to be retained shall be reduced to a maximum of 3.5 metres. Works to comply with this requirement shall be completed within 3 months of final grant of planning permission.

(b) The proposed extension of the dropped kerb shall be reduced in width to accord with the requirements of (a) above.

REASON: In the interest of orderly development.

3.1.2. Condition no 3 refers to the widened vehicular entrance and this is because the original entrance was c2.8m before being widened and condition no 2 is permitting the width to be increased to 3.5m.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planning Officer's Report is the basis for the Planning Authority's decision and includes the following:

- No site specific or local planning precedents.
- Section 3.4.1.3 Construction Materials and 12.4.8 Vehicular Entrances and Hardstanding Areas are relevant.
- Regard is had to the surroundings including similar driveways in the estate.
- The retention of the widened entrance and proposed dished kerb and footpath would be contrary to Section 12.4.8.1.
- The retention of the development is appropriate subject to a condition restricting the width of the access to 3.5m.

3.2.2. Other Technical Reports

- Drainage Planning – No objection subject to a condition

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

None

## 4.0 Planning History

4.1.1. There is no relevant site planning history and there is one relevant planning permission within Oak Dene where the existing vehicular access points was permitted to be widened to 3.6m under P.A. ref. D07A/1677. There are no records of applications having been made for or granted for the creation of second access points to any of the three adjacent houses or for widening a vehicular access.

4.1.2. In the wider area, there are several examples of applications being submitted for widened entrances, but in most instances, conditions were imposed on grants of permission or further information was sought restricting the width of the entrances to 3.5m. A number of such appeals where the width of the entrance was addressed are:

- **ABP-302239-18 (P.A. Ref. D18A/0461)** – Permission sought for 5.7m wide entrance but a condition imposed by the Planning Authority limited the access to 3.5m. This element was not appealed but Condition No 5 of the ABP decision required the footpath to be dished at the road junction in accordance with the requirements of the planning authority. As part of the compliance, the width of the entrance was restricted to 3.5m. (This site is located c100 east of the site)
- **ABP-311180-21 (P.A. Ref. D21A/0503)** – The applicant sought retention of a 3.5m wide entrance and permission for a 4.5m wide entrance. Condition No. 2 of the ABP decision restricted the access to 3.5m. (Glenageary – c2km north)
- **ABP-305024-19 (P.A. Ref. D19A/0321)** – Permission sought from increase in width of entrance from 3.34 to 5m but restricted to 3.5m by a condition imposed by

the Planning Authority. A different condition was appealed but not the one referring to the width of the entrance.

- **ABP-305717-19 (P.A. Ref. D19A/0605)** – Permission refused by PA for retention of an increase in width of an entrance from 2.8m to 5.35m as it would set and undesirable precedent and was refused on appeal for two reasons including that the wider entrance would detract from the character of the housing estate and would give rise to a traffic hazard and obstruction of road users by reason of the increased width of the entrance and driveway on this residential roadway and would be contrary to policy 8.2.4.9 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 (which refers to a maximum width of 3.5m).

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The relevant Development Plan is the Dun Laoghaire Rathdown Development Plan 2022-2028, which came into effect on 21<sup>st</sup> April 2022.
- 5.1.2. The site and surrounding area are zoned 'Objective A' with a stated objective '*to provide residential development and improve residential amenity while protecting the existing residential amenities*'
- 5.1.3. Section 12.4 Transport includes 12.4.8 'Vehicular Entrances and Hardstanding Areas' states that:

Vehicle entrances and exits shall be designed to avoid traffic hazard for pedestrians and passing traffic. ... In general, for a single residential dwelling, the maximum width of an entrance is 3.5 metres.

Section 12.4.8.2 'Visual and Physical Impacts' states that:

Vehicular entrances and on-curtilage parking should not normally dominate a property's frontage. ... Applications for double-width entrances will normally be resisted.

There can be negative cumulative effects from the removal or creation of front boundary treatments and roadside elements in terms of area character and

appearance, pedestrian safety, on-street parking, drainage and biodiversity – and these will be assessed in the consideration of applications.

Proposals for off street parking need to be balanced against loss of amenity (visual and physical) and will be considered in light of overall traffic flows and car parking in the vicinity.

Section 12.4.8.3 'Driveways/Hardstanding Areas' provides that:

A minimum of one third of front garden areas should be maintained in grass or landscaped in the interest of urban greening and SUDS. Each driveway, parking and hardstanding area shall be constructed in accordance with SuDS and include measures to prevent drainage from the driveway entering onto the public.

## **5.2. Natural Heritage Designations**

5.2.1. None relevant

## **6.0 The Appeal**

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

6.1.1. The applicant is appealing against the decision and particular reference is made to Condition No. 2. The main issues raised in the appeal included the following:

- The applicant has appealed the grant of permission on the basis of both procedure and the public interest, particularly for younger residents.
- The decision, and in particular Condition No. 2 fails to take account of a significant number of adjacent precedents as other houses in the estate have already widened their entrances. The width of some of the entrances exceed the applicants current entrance.
- As there are a wide variety of different entrances in the estate, 'orderly development' cannot create uniformity of entrance types and the applicants entrance is not out of order with those of their neighbours.

- Front gardens for parking cars are small in Oak Dene as more houses were built there than originally planned for, and the roads are narrow.
- Residents park their cars on both sides of the road, limiting traffic movement to single file and children playing in the street cannot be easily seen.
- The motivation for the increased parking in the garden was to reduce potential hazards for younger residents.
- The volume of cars parked on the road represents a hazard for fire tenders.

## 6.2. **Planning Authority Response**

- The Planning Authority referred the Board to the previous Planner's Report and stated that in its opinion the grounds of appeal do not raise any new matters which, would justify a change of attitude towards the proposed development.

## 6.3. **Observations**

- None

## 7.0 **Assessment**

7.1. I have read all of the documentation attached to this file including the appeal and the report of the Planning Authority, in addition to having visited the site and while the appellant has not specifically stated it, I am satisfied that the appeal is against the imposition of Condition No. 2 of the decision to grant permission. I consider it is appropriate that the appeal should be confined to Condition No. 2 only and I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted and that it would be appropriate for the Board to use the provisions of Section 139 of the 2000 Act in this case.

7.1.1. I am satisfied that the main issues in the appeal can be dealt with under the following headings: -

- Road Safety
- Visual Amenity - Orderly Development

- Appropriate Assessment

## 7.2. Road Safety

- 7.2.1. Condition No. 2 requires that the width of the vehicular entrance is reduced from 4.997m to 3.5m. The original entrance was 2.8m wide. Section 12.4.8 of the Dun Laoghaire Rathdown County Development Plan 2022-2028 states that vehicular entrances should be designed to avoid traffic hazard for pedestrians and passing traffic and that for single residential dwellings, in general the maximum width of an entrance is 3.5m, indicating that exceptions can be made.
- 7.2.2. There is only one record of planning permission being applied for and granted for the widening of a vehicular access within the Oak Dale estate and that was for an entrance at No. 24 that was widened from c2.8m to 3.6m in 2007.
- 7.2.3. While several houses have two vehicular entrances, they are narrow at c2.8m in width and those entrances that are wider appeared to have been widened otherwise than following from grants of permission.
- 7.2.4. I am satisfied that the widening of the entrance does not reduce the hazard for pedestrians and passing traffic as cars entering and leaving the driveway still have to do so by either reversing into or out of the entrance, as there is a very limited area of space between the front boundary wall and the front of the house (c.4.1m), eliminating the potential to turn a car within the driveway and to allow entry and exit from the site in a forward gear.
- 7.2.5. While the applicants motivation is to increase parking on the site and reduce parking on the footpath in the interest of public or child safety, as the applicant has no control over whether other road users park on the footpath in front of their home, I do not accept the applicant's opinion that the interests of the public and particularly young residents will be better served by the provision of a widened entrance to their property, to facilitate the parking of cars on the site, or that it would reduce the obstruction of emergency vehicles, as cars park on the footpath in an ad-hoc manner that entirely blocks pedestrians requiring them to walk on the road, notwithstanding the widened entrance already being in place.
- 7.2.6. It is considered that the granting of retention permission for the widened entrance would create an undesirable precedent which would make similar development



within the estate more difficult to resist in the future where similar reasons were provided, i.e., limited on street parking or pedestrian safety.

- 7.2.7. The widened entrance is not in compliance with current Development Plan policy, and I am satisfied that the arrangement seeking retention would give rise to a traffic hazard for pedestrians and passing traffic and I am further satisfied that an entrance of 3.5m as per Condition No. 2 and as set out in the development plan in the interest of public safety is reasonable and would be sufficient to facilitate the access and egress of cars from this site, while still facilitating the parking of two cars on the site.

### **7.3. Visual Amenity – Orderly Development**

- 7.3.1. Section 12.4.8.2 of the Development Plan states that the removal or creation of front boundary treatments can result in negative effects in terms of the character and appearance of the area as well as on pedestrian safety and on-street parking and that vehicular entrances and on-curtilage parking should not normally dominate a property's frontage. Furthermore, applications for double-width entrances will normally be resisted and the cumulative effects of adjoining properties removing boundary treatments can alter the character and appearance of an area.
- 7.3.2. The entrance seeking retention is significantly wider than the original driveway width being c78% wider than the original 2.8m wide entrance at 4.997m.
- 7.3.3. With respect to orderly development, even though there is an example of a widened entrance at No. 14, there is no record of permission being granted for that entrance. While second entrances have been installed at No's 17, 18 and 19, and they too have no record of permission being granted, they are of a narrow form replicating the original entrance widths, while the majority of houses on the opposite side of the street have retained their original 2.8m wide entrances.
- 7.3.4. While it will not dominate the site frontage which is 12.75m in length, and although there are several wide entrance points and multiple narrow access point in the immediate vicinity, I am satisfied that the extent of the widened opening along the frontage is out of character with the established form of permitted vehicular openings in the vicinity.
- 7.3.5. The majority of the front garden is now paved over, as are the front gardens of the houses on the same side of the street and cumulatively they dominate the frontage

and detract from the original character of the streetscape. The visual impact of same is exacerbated by the widened vehicular opening.

- 7.3.6. It is considered that the development proposed to be retained, by reason of the removal of part of the front boundary wall, combined with the excessive width of the vehicular entrance and the paving over of the entire front garden, detracts from the character and appearance of the housing estate and of the streetscape, and is contrary to sections 12.4.8.2 and 12.4.8.3 of the Development Plan.
- 7.3.7. The widened access would, if permitted, risk the establishment of an adverse precedent for the remainder of the Oak Dene cul-de-sac, which although already significantly amended on the applicants side of the street, would cumulatively lead to further injury to the visual amenity of the area. For this reason, I consider that condition no 2 should be retained.

## **8.0 Appropriate Assessment Screening**

- 8.1. Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## **9.0 Recommendation**

- 9.1. Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to ATTACH condition number 2 and the reason therefor.

## 10.0 Reasons and Considerations

10.1.1. Having regard to the policies and objectives as set out in the Dun Laoghaire Rathdown Development Plan 2022-2028, the nature of the proposed development and to the nature and character of the surrounding environment, the Board is satisfied that Condition No. 2 is warranted. Subject to that condition, the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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.

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Joe Bonner  
Senior Planning Inspector

23<sup>rd</sup> August 2023