



An
Bord
Pleanála

Inspector's Report

ABP-319112-24

Development

The widening of existing pedestrian gate to provide new vehicular entrance and electric double gate and all associated site works. (At the rear of 1 Belgrave Square North (a Protected Structure, RPS 430).

Location

1 Belgrave Square North, Monkstown, Blackrock, Co. Dublin, A94 KC81

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D23A/0759/WEB

Applicant(s)

Joe Barry.

Type of Application

Permission.

Planning Authority Decision

Grant, subject to conditions.

Type of Appeal

Third Party

Appellant(s)

Clodagh and Hugh O'Connor.

Observer(s)

Colin Lowe and Hilda Markey
Tom Cleary and others (see section 6.4)

Date of Site Inspection

21st May 2024.

Inspector

Terence McLellan

1.0 Site Location and Description

- 1.1. The appeal site refers to the dwelling and plot located at 1 Belgrave Square (North) which is located in Monkstown, Blackrock, Co. Dublin. No. 1 Belgrave Square is a two storey period dwelling with a lower ground floor and a single storey outbuilding within the rear garden. The subject dwelling is listed on the Record of Protected Structures (RPS Ref. 430) and the site is located within the Monkstown Road Architectural Conservation Area.
- 1.2. The principal frontage is onto Belgrave Square to the south whilst the rear garden backs onto Trafalgar Lane to the north where there is an existing gated pedestrian access. Trafalgar Lane is accessed from Belgrave Place to the east and is lined with coach house dwellings on its northern side and the rear garden ground of the properties on Belgrave Square to the south. Parking takes place on both sides of the laneway, which narrows from the subject dwelling to the western terminus adjacent to Belgrave Terrace. Many of the Belgrave Square North properties that back onto Trafalgar Lane have double door vehicular entrance gates onto the lane, including the adjoining dwelling at No. 2 Belgrave Lane.

2.0 Proposed Development

- 2.1. Planning permission is sought to provide a new vehicular entrance and electric double gates in place of the existing pedestrian gate, in order to provide an off-street car parking space and an electric vehicle charging point. A portion of the existing monopitch outbuilding would need to be demolished to enable the provision of the parking space.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission was issued by Dún Laoghaire-Rathdown County Council on the 30th January 2024, subject to five standard conditions.

3.2. Planning Authority Reports

3.2.1. The Planner's Report contains the following points of note:

- Submissions regarding the nature and ownership of Trafalgar Lane are noted and it is not within the remit of the Planning Authority or planning legislation to determine who has rights over the lane.
- The store/outbuilding that would require partial demolition is not protected and no objections are raised to its removal.
- Alterations to the boundary wall are not considered to result in a significant loss of original fabric and would not have an impact on the Architectural Conservation Area.

3.2.2. **Other Technical Reports**

3.2.3. **Conservation Officer (19.01.2024):** No objection.

3.2.4. **Drainage Planning (18.01.2024):** No objection, subject to a condition relating to hardstanding and runoff.

3.2.5. **Transportation Planning (25.01.2024):** No objection, subject to conditions relating to inward opening gates, hardstanding and runoff, avoidance of conflict during construction, and orderly development.

3.3. Prescribed Bodies

3.3.1. No response received from: An Chomhairle Ealaíon; An Taisce; Fáilte Ireland; the Heritage Council; and the Department of Housing, Local Government, and Heritage.

3.4. Third Party Observations

3.4.1. Nine observations were made on the planning application, raising similar issues to the grounds of appeal as set out in Section 6 below.

4.0 Planning History

Subject Site

4.1.1. No planning history of specific relevance.

Adjacent Sites

- 4.1.2. **4 Belgrave Square (North) - ABP Ref. 313871/P.A. Ref. D21A/1120:** Permission was granted by the Board in October 2023 for the provision of double timber access doors in the rear wall of the property for vehicular access from Trafalgar Lane.
- 4.1.3. **5 Belgrave Square (North) – ABP Ref. 202690/P.A. Ref. D03A/0129:** Permission was granted by the Board in September 2003 for the creation of vehicular entrance gates in the existing garden wall (onto Trafalgar Lane) and the provision of off-street parking.

5.0 Policy Context

Dún Laoghaire-Rathdown County Development Plan 2022-2028

- 5.1.1. The site is zoned 'A' with the objective 'To provide residential development and improve residential amenity while protecting the existing residential amenities'. The site is located within the Monkstown Architectural Conservation Area (ACA) and the existing dwelling is listed on the Register of protected Structures (RPS Ref. 430).
- 5.1.2. Chapter 11: Heritage and Conservation guides decision-making on protection of heritage through protection, management, sensitive enhancement or appropriate repurposing. Relevant sections include:
- HER7: Record of Protected Structures
 - HER8: Work to Protected Structures
 - HER13: Architectural Conservation Areas
- 5.1.3. Chapter 12: Development Management contains the detailed development management objectives and standards that are to be applied to proposed developments. The relevant sections of this chapter include:
- 12.3.4 - Residential Development – General Requirements
 - 12.3.4.1 - Road and Footpath Requirements
 - 12.4.8 - Vehicular Entrances and Hardstanding Areas
 - 12.4.8.1 - General Specifications

- 12.4.8.2 - Visual and Physical Impacts
- 12.4.8.1 - General Specifications
- 12.4.8.2 - Visual and Physical Impacts
- 12.4.8.3 - Driveways/Hardstanding Areas
- 12.4.8.4 - ACAs/Protected Structures
- 12.8.7.2 - Boundaries
- 12.11 - Heritage
- 12.11.3 - Architectural Conservation Areas

5.1.4. Monkstown Architectural Conservation Area Character Appraisal (2012)

5.2. Other Relevant Guidance

- Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011). Section 13.8 of the guidelines relates to development affecting the setting of a Protected Structure or an architectural conservation area.
- Design Manual for Urban Roads and Streets (2019).

5.3. Natural Heritage Designations

5.3.1. The nearest European Sites are as follows:

- 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

5.4.1. The development does not constitute a class of development for EIA purposes. See pre-screening form at Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A Third Party appeal has been submitted by Clodagh and Hugh O'Connor of 19 Trafalgar Lane, Monkstown, Co. Dublin, which sits directly opposite the appeal site. The submission is accompanied by correspondence from Dún Laoghaire-Rathdown County Council confirming that parking permits are not available to Trafalgar Lane residents and a survey from Hempenstall Survey and & Scientific Instruments Co. Ltd. The grounds of appeal can be summarised as follows:

- Trafalgar Lane is a privately owned. It has not been taken in charge and is managed and maintained by the Trafalgar Lane property owners.
- Trafalgar Lane is a residential lane, not a back alley or mews lane. Front of house parking is required for the dwellings and the parking is required on both sides of the lane. The lane is at capacity.
- The property rights of 19 Trafalgar Lane extend the full width of Trafalgar Lane. The proposed development would therefore encroach on private property and the applicant would have to pass over land that is in private ownership. Details of Title have been provided to demonstrate ownership.
- No. 2 Belgrave Square have gated access, but they have never used them for vehicular access, nor do they park their car in the rear garden. The only party with entitlement to use this part of the lane for parking is 19 Trafalgar Lane.
- The development would result in the loss of the parking space for Nos. 19 and 18 Trafalgar Lane. The space at 19 Trafalgar Lane is needed and has been used every day for 21 years. Trafalgar lane residents are not entitled to parking permits and there is no alternative available space to park on Trafalgar Lane.
- Approval of the development would make living on Trafalgar Lane impossible, and a member of the household is disabled and has surgeries planned.
- The applicant has the use of parking at the front of the dwelling within the APCOA parking area and the Council parking area. Belgrave Square residents have more parking available to them than Trafalgar Lane residents.

- Residents require space to park, for families with young children, carers, elderly, and people with disabilities.
- Trafalgar Lane is busy and already dangerous; vehicles often have to reverse down the lane and visibility is poor. The proposed development would increase danger and the risk of collision, creating a traffic and pedestrian hazard.
- There are no reliable or relevant precedents. A number of dwellings on Belgrave Square have access gates onto Trafalgar Lane but that doesn't mean permission was granted.
- 4 Belgrave Square recently gained permission for permission to install gates, but this was before the provision of parking for Belgrave Square residents to the front of the properties.
- The granite wall is worthy of protection, it exhibits a distinct character, unique qualities, and is an expression of our heritage and identity. The special character and beauty is of great value and worthy of protection.

6.2. Applicant Response

6.2.1. A First Party response has been received from Manahan Planners of 38 Dawson Street, Dublin 2, for and on behalf of the applicant, Joe Barry. The submission is accompanied by a letter to the applicant from their solicitor and various maps appended to the title deeds of the subject property. The substantive points raised are summarised as follows:

- The appellant chooses to park their car on the on the opposite side of the lane rather than outside the front of their home.
- The appellant considers that they own the roadway as the red line extends in front of the property on the OS map, as is normal. They do not own the roadway and the red line does not confer ownership, parking rights, or access.
- The applicant's solicitor has reviewed the title deeds for the subject property and a map from 1863. Trafalgar Lane is an amalgam of two laneways, one being to the rear of the properties on Trafalgar Terrace and one being to the rear of properties on Belgrave Square North. The applicant therefore has ownership access to the lane.

- The pedestrian gate and lane have been used extensively by the applicant and their family for 25 years, including parking to bring heavy equipment and garden materials to and from the garden, and during construction works.
- The lane is not in the appellant's ownership and their own surveyor advised that they should get a solicitor opinion to accompany the appeal. No opinion was provided.
- The Transportation Department of the Council do not consider that the development would create a traffic hazard, traffic is moving slowly in this location and a person using this access would use due care and attention.
- In terms of the appellant enjoying a view of the wall, there is no right to a view in planning and the section of the wall facing the appellant's property is not being altered.
- The Planning Authority have concluded that the development would not be injurious to residential or visual amenity, would not result in traffic impacts and would not harm the setting of the Protected Structure. The development is consistent with the CDP.
- A similar development was granted permission by the Board at 4 Belgrave Square North. The same considerations apply here.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority do not consider that the grounds of appeal raise any new matter which would justify a change in attitude to the proposed development.

6.4. Observations

- 6.4.1. Two observations have been received in response to the appeal from the following parties:
- Colin Lowe and Hilda Markey of 21 Trafalgar Lane, Monkstown, Co. Dublin.
 - Tom Cleary of 5 Trafalgar Lane, Monkstown, Co. Dublin, also representing nos. 6, 7, 8, 10, 11, 14, 16, 18, 22, and 23 Trafalgar Lane.

6.4.2. The observations generally raise similar issues to those raised in the grounds of appeal. Additional substantive points made can be summarised as follows:

- Providing a car parking space within the rear garden of 1 Belgrave Square would impact on its Protected Structure Status, giving this historic property an incongruous modern suburban character.
- The works to the wall would impact on the architectural character of Trafalgar Lane.
- The Conservation Report gives no explanation for conclusions that the portion of the wall to be removed is not contemporaneous with the rest of the wall and providing vehicular access would not return it to its original use.
- Electric Vehicle parking can be provided to the front as on other schemes.
- Permission was granted for 4 Belgrave Square due to extenuating family circumstances.
- Section 12.4.8.2 states that vehicular entrances should be resisted.
- None of the properties on Belgrave Square use their gates for vehicular access.
- The proposed development would create a precedent for Belgrave Square North residents to seek future vehicular access onto the privately owned Trafalgar Lane. This would raise further access and parking pressure issues and would not be equitable.

6.5. Further Responses

6.5.1. None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Ownership and Parking Rights
- Transport
- Heritage Impacts

7.2. Ownership and Parking Rights

- 7.2.1. The primary issue in the appellant's case is the fact that Trafalgar Lane is in private ownership and is owned, managed, and maintained by the residents of the coach houses on the north side of the lane. The appellants argue that they own the full width of Trafalgar Lane outside of their house, up to the boundary wall of the rear gardens of Belgrave Square North, and that they rely on this to park their vehicle as they do not qualify for parking permits on Belgrave Square, where they argue the applicant has various parking options available to them. It is submitted that the proposed development would encroach on private property and that the applicant would have to pass over land that is in private ownership.
- 7.2.2. The applicant on the other hand submits that they have used their current gate and the lane extensively over the past 25 years and that the land is not in the appellant's ownership. The applicant also contends that they have ownership access to the lane and that based on title information from 1863, Trafalgar Lane is an amalgam of two laneways, one being to the rear of the properties on Trafalgar Terrace and one being to the rear of properties on Belgrave Square North.
- 7.2.3. Adjudicating on the ownership rights of the various parties is not a matter for the Board. Section 5.13 of the Development Management Guidelines (2007) addresses 'Issues relating to title to land' and states 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). I am therefore satisfied that the ownership issues raised, and the rights to pass or park on the lane, are a civil matter to be resolved between the various parties and is not a reason on which planning permission should be refused.

7.2.4. As Trafalgar Lane is in private ownership, parking is unregulated. I note from my site inspection that parking takes place on both sides of the lane and that some areas to the front of the coach house dwellings are blocked to prevent vehicles parking. Many of the dwellings on Belgrave Square that back onto the lane have double door vehicular entrances onto the lane, including the property at No. 2 Belgrave Square, which is immediately adjacent to the appeal site. The appellant argues that the neighbouring vehicular access has never been used as such and observers on the appeal state that none of the dwellings on Belgrave Square use their gates for vehicular access. Whilst I accept that this may be the current arrangement, it does not preclude Belgrave Square residents from making use of their vehicular accesses at some point in the future.

7.2.5. The appellants submit that the provision of a vehicular access gate at the subject property would result in the loss of a parking space on the lane. Parking on Trafalgar Lane is unassigned and unregulated and whilst I note the significant concerns raised by the appellant regarding the impact that would arise from the potential loss of parking, there would still be space outside of the appellant's home on the north side of the lane to park a vehicle. In any event, I have no objection to the provision of vehicular gates in this specific location and the provision of vehicular gates on the south side of the lane is clearly well established. Issues regarding the potential blocking of vehicular gates by parked vehicles is a civil matter, given the private nature of the lane.

7.3. Transport Impacts

7.3.1. Concerns are raised by the appellants and observers on the appeal that the proposed vehicular entrance would increase danger and the risk of collision, creating a traffic and pedestrian hazard. It is further submitted in the observations that Section 12.4.8.2 of the CDP states that vehicular entrances should be resisted.

7.3.2. 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.

- 7.3.3. As set out previously, Trafalgar Lane is a private road, not a public road and as such section 12.8.4.2 of the CDP would not apply. However, potential safety implications resulting from the proposed vehicular access must be considered. Trafalgar Lane is a long, straight laneway. Whilst there are instances of parking on both sides of the lane, there was no apparent congestion or parking pressure at the time of my site inspection, and I note that there was good visibility along the length of the route. Trafalgar Lane is very much a low speed environment by its nature. Furthermore, as a no through route, the laneway is overwhelmingly used by residents who are familiar with the lane and the various parking points and vehicular accesses. The proposed access would be parallel to the laneway, with vehicles accessing and egressing the site in much the same way as vehicles parallel parking and emerging from parking spaces. It is therefore my opinion that the development itself would not impede any sightlines and that vehicles emerging from the access would do so in a controlled and low speed manner and I am satisfied that the development would not create a traffic or pedestrian hazard.

7.4. Heritage Impacts

- 7.4.1. Several concerns are raised regarding the Protected Structure status of the existing dwelling and the potential impacts on the development on this structure and the Monkstown Architectural Conservation Area. In my opinion, the works required to provide the proposed vehicular gates are minimal. The provision of a parking space within the rear garden and the provision of vehicular gates would not have any significant impact on the character or setting of the Protected Structure or the Monkstown Architectural Conservation Area. Whilst I agree that the granite wall is pleasant and clearly of heritage value, the level of intervention and loss of historic fabric is not significant, and I do not consider that it would have any significant impact on the integrity and overall character of the wall, or the visual amenity of Trafalgar Lane.

8.0 AA Screening

- 8.1.1. I have considered the proposed vehicular entrance in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located approximately 180m to the south of the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC which are the nearest European Sites.
- 8.1.2. The proposed development comprises removal of a portion of wall and provision of a gated vehicular access to the rear of an existing dwellinghouse, as set out in Section 2.0 of the report. No nature conservation concerns were raised in the planning appeal.
- 8.1.3. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- The small scale domestic nature of the proposed development and the existing wastewater connections.
 - The distance from the nearest European Sites and the lack of any direct hydrological connection.
 - The screening determination of the Planning Authority, which concluded that the development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 8.1.4. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

- 9.1.1. I recommend that the Board uphold the decision of Dún Laoghaire-Rathdown County Council and grant permission for the proposed development, subject to the conditions set out below.

10.0 Reasons and Considerations

10.1.1. Having regard to the zoning of the site, the pattern of development on Trafalgar Lane, the nature and extent of the proposed development, and the provisions of the Dún 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, visual or heritage amenities of the area or of property in the vicinity, would be acceptable in terms of traffic and pedestrian safety 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.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 1st December 2023, 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.

Reason: In the interests of clarity.

2. The vehicular entrance shall be a maximum of 3 metres wide and gates shall open inwards and not out into the public domain.

Reason: In the interest of traffic safety and the proper planning and development of the area.

3. Drainage arrangements, for the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. 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.

Reason: To ensure that the adjoining roadway is kept in a clean and safe condition during construction works in the interests of orderly development.

5. 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 Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of adjoining property in the vicinity.

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.

Terence McLellan
Senior Planning Inspector

27th May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319112			
Proposed Development Summary	The widening of existing pedestrian gate to provide new vehicular entrance and electric double gate and all associated site works. (At the rear of 1 Belgrave Square North (a Protected Structure, RPS 430).			
Development Address	1 Belgrave Square North, Monkstown, Blackrock, Co. Dublin, A94 KC81			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			EIA Mandatory EIAR required	
No	X		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No	X	N/A		No EIAR or Preliminary Examination required
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____