



An  
Bord  
Pleanála

## Inspector's Report ABP-320046-24

<b>Development</b>	Retention of widened vehicular entrance and side boundaries to front garden.
<b>Location</b>	4 Hollybrook Grove, Clontarf, Dublin 3, D03 WK63
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	3520/24
<b>Applicant(s)</b>	Damien & Aideen Kelly.
<b>Type of Application</b>	Retention Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Damien & Aideen Kelly.
<b>Observer(s)</b>	Siobhan Kelly
<b>Date of Site Inspection</b>	2 <sup>nd</sup> September 2024
<b>Inspector</b>	Gerard Kellett

## 1.0 Site Location and Description

- 1.1. The subject site is located at No.4 Hollybrook Grove, Clontarf, Dublin 3, which is a two-storey hipped roof semi-detached dwelling which accesses onto Hollybrook Grove/Strandville Avenue Road to the east.
- 1.2. The area to the front is paved which facilitates off street parking for two cars. The boundaries to the front comprise a red brick wall and piers. There is wall with a timber cladding addition along the common boundaries of no.3 & 5 Hollybrook Grove. The existing entrance is open with no gate attached to the existing piers.
- 1.3. To the west is Dollymount Gardens which is a landscaping company. The site is opposite 'Simla Lodge' which is a Protected Structure. The surrounding area is residential character defined with two storey semi-detached dwellings along Hollybrook Grove. A mature tree is located in the grass margin at the outer edge of the footpath to the front of the site. The appeal site is not a Protected Structure or within an Architectural Conservation Area (ACA).

## 2.0 Proposed Development

- 2.1. Permission is sought for retention of a *'5.950mm wide vehicular entrance and the 1570mm high side boundaries to the front garden between No's 3 & 5 Hollybrook Grove'*.

## 3.0 Planning Authority Decision

- 3.1. The Planning Authority REFUSED retention permission on the 4<sup>th</sup> June 2024 for the following reason(s) as follows:

- 1) The retention of the 5950mm vehicular entrance and 1570mm high side boundaries to the front garden is contrary to Appendix 5.4.3.1 of the Dublin City Development Plan 2022-2028 which states that the maximum width permitted for vehicular entrances is 3.0 metres, and which aims to avoid creation of a traffic hazard for passing traffic and conflict with pedestrians. The development to be retained would

therefore result in the creation of conflict with pedestrian safety by facilitating hazardous manoeuvring at increased speed and extensive dishing of the footpath. Furthermore, the excessive widening of the vehicular entrance would impact on the supply of informal and future provision of formal on-street parking and therefore would be contrary to the Development Plan 2022 - 2028, Appendix 5.4.3.1 and Policy SMT25 which seeks to manage on-street car parking. The proposed development would set an unacceptable precedent and be contrary to the proper planning and sustainable development of the area.

- 2) The vehicle entrance the subject of this retention application is, at 5950mm in width, excessive. Retention of this excessive vehicle entrance would contravene materially Condition 3b) of permission 3194/12. The retention of this development would, in itself and by the precedent established for similar grossly overscaled entrances, seriously injure the residential and visual amenities of property in the vicinity. The development proposed for retention would therefore be contrary to Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of the area.
- 3) The fences atop the entire length of the shared side boundary walls to the front garden represent a traffic hazard as they reduce the visibility of drivers exiting the site in reverse gear, due to insufficient depth to turnabout within the front garden. The development proposed for retention would therefore be contrary to the Dublin City Development Plan 2022 – 2028 and the proper planning and sustainable development of the area.

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

#### **Planning Reports**

- The Planner's Report forms the basis for the decision to refuse permission; as the existing width would exceed the maximum permissible under the current development plan; the proposed development would contravene a condition of a previous permission; the fences on top of the shared boundary represent a traffic hazard.

- The report provides a description of the site, indicates the planning history, identifies the land use zoning designation and associated policy context from the Dublin City Development Plan 2022-2028.
- No concerns with respect to AA or EIA

### **Other Technical Reports**

- **Transportation Planning Division:** Recommended that permission be refused as the existing width would exceed the maximum permissible under the current development plan.
- **Engineering Department Drainage Division:** No objection subject to conditions.

### **3.3. Prescribed Bodies**

None

### **3.4. Third Party Observation(s)**

Six third-party submissions were made on the application making the following planning points:

- Five submissions received where in support referencing excessive traffic and on street parking issues in the area.
- One submission received is opposed to the application siting consent to erect fence on boundary wall, road safety and entrance width being significantly wider than the development plan allows.

## **4.0 Planning History**

**PA REF: WEB1548/17** – Refers to a GRANT of Permission for: Proposed attic roof space conversion with dormer roof window fitted with obscured frosted glazed stairwell window to side part of roof, dormer roof window to rear part of roof, 2no. Rooflights to front part of roof with associated internal alterations to dwelling house.

– A subsequent First Party appeal (**ABP-300734-18**) was lodged against planning condition(s) no.3(a), (b)i and (c) of the Planning Authorities decision which relates to the design alterations and the omission of the proposed side dormer. The Board Order stated **REMOVE** condition 3(a), 3(b)(i) and 3(c).

**PA REF: 3194/12:** Refers to a GRANT of permission by Dublin City Council for the demolition of the existing single storey garage to the side of the house along with garden shed and green house to the rear and construction of a new two storey pitched roof extension to the side and alterations to existing house. Alterations to the front driveway and entrance gates to widen and move the vehicular entrance to the centre and resurfacing of the driveway area.

Notable condition(s) include:

Condition 3: The requirements of the Roads & Traffic planning included five elements mostly notably conditions (a) and (b)

a) The existing location of the vehicular entrance adjacent to the boundary wall with No. 5 Hollybrook Grove shall be maintained and shall not be relocated to the centre of the site as this will result in the removal of an on street car parking space.

b) The vehicular entrance shall be no more than 3.6m wide and shall not have outward opening gates.

**Enforcement Notice (E0986/22)** – Building works Non-compliance with condition 3b attached to planning registry file reference 3194/12 and the erection / fixing of an unauthorised fence to the side boundary walls to the front and the inadequate application of an opaque film ,or the provision of opaque glazing to the side gable end dormer roof structure, in breach of condition 1 attached to planning permission register number WEB1548/17,

Other notable permissions in the immediate area include the following:

**PA REF: 3758/17** – No.2 Hollybrook Grove to the south of the appeal site – Refers to a GRANT of permission for part single storey part 2 storey flat roof extension to rear, new single storey extension to front, and widen front entrance driveway.

Notable condition(s) include:

Condition 6 states the vehicle entrance shall be 3.5m in width and shall not have outward opening gates.

## 5.0 Policy Context

### 5.1. Development Plan

The Dublin City Development Plan 2022 – 2028 is the relevant Development Plan for the subject site.

The site is subject to land use zoning “Z1” – (Sustainable Residential Neighbourhoods) which has the objective “*to protect, provide and improve residential amenities*”.

Volume 2 of the Dublin City Development Plan 2022-2028 contains a number of appendices containing notes and standards for various development types. Appendix 5 - ‘Transport and Mobility: Technical Requirements’ is relevant to the subject appeal.

Section 4.3 (Parking in Front Gardens) is relevant and states that: *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. Proposals for offstreet parking in the front gardens of single dwellings in mainly residential areas may not be permitted where residents rely on on-street car parking and there is a strong demand for such parking.*

Section 4.3.1 (Dimensions and Surfacing) is relevant and states that: *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.*

Section 4.3.5 (Treatment of Front Boundaries) is relevant states that: *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.*

## **5.2. Natural Heritage Designations**

The site is not located within or adjacent to any designated Natura 2000 site. The nearest Natura 2000 site(s) are as follows:

- South Dublin Bay and River Tolka Estuary SPA (0040240) 210m to the south of the subject site.
- The North Bull Island SPA (004006) 3.5km to the east of the site.
- North Dublin Bay SAC (000206) 3.5km to the east of the site.

## **5.3. EIA Screening**

Refer to Appendix 1 – Form 1. Having regard to the proposed development, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and as such preliminary examination or an Environmental Impact Assessment is not required. See Appendix 1.

## **6.0 The Appeal**

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

A first-party appeal has been lodged against the decision of Dublin City Council to refuse planning permission. The grounds of appeal can be summarised as follows:

- Traffic Safety
  - Current driveway width has eased traffic congestion allowing oncoming cars pass by.
  - Parking is an ongoing issue in Hollybrook Grove.
- Boundary Treatment
  - Existing fence is for privacy.
- Other Matters
  - Position of the fence is on the applicant's wall and not a shared boundary.
  - Precedent set with front and side boundary walls with a height in excess of our fences in the area; The existing fence is in keeping with the area.

### **6.2. Planning Authority Response**

None

### **6.3. Observations**

One observation has been received from Siobhan Kelly (No.5 Hollybrook Grove, Clontarf (To the immediate north) making the following points:

- Compliance of Development Plan Policy/Standards
  - Applicant ignored the previous planning permission granted for a driveway width of 3.6metres and constructed a driveway of almost 6metres.
- Traffic Safety
  - The existing fence obstructs safe exit from the driveway.
- Visual Amenity



- No precedence for this kind of fence erected on a boundary wall in Hollybrook.
- Other Matters
  - The existing fences were erected illegally on boundary wall without consent.
  - Parking is reduced by the presence of this unnecessarily extra wide driveway, diminishing amenities for all.

## 7.0 Assessment

Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Compliance of Development Plan Policy/Standards & Traffic Safety
- Boundary Treatment
- Other Matters

### 7.1. Principle of Development

- 7.1.1. The subject site is zoned “Z1” – (Sustainable Residential Neighbourhoods) as per the Dublin City Council Development Plan 2022 – 2028 which has the objective “*to protect, provide and improve residential amenities*”. The subject site relates to an existing dwelling where alterations and vehicular entrances can be considered. Therefore, the principle of the development is acceptable, subject to normal planning considerations.

### 7.2. Compliance of Development Plan Policy/Standards & Traffic Safety

- 7.2.1. The issue with regard to loss of on street parking and the width of the entrance to be retained has been raised as a reason for refusal by the Planning Authority and by the observer.

- 7.2.2. Section 4.3.1 (Dimensions and Surfacing) of Appendix 5 of the Dublin City Council Development Plan 2022 – 2028 states, that a proposed vehicular opening shall be at least 2.5 metres or at most 3.0 metres in width and Policy SMT25 seeks to manage on street parking.
- 7.2.3. The proposal seeks retention permission for the existing vehicular entrance of 5.950metres. This represents nearly doubling of the maximum prescribed Development Plan standard which I consider to be unacceptable. It is my view the entrance width would be visually incoherent with existing entrances in the vicinity of the site and would be inconsistent with the character and streetscape of the Hollybrook Grove/ Strandville Avenue Road. Therefore, I consider retention permission should be refused in this instance.
- 7.2.4. I note the reason for refusal by the Planning Authority included the entrance to be retained would impact on the supply of informal and future provision of formal on-street parking. Hollybrook Grove/ Strandville Avenue Road is not designated as a formal parking area in the Development Plan. The current parking arrangement along Hollybrook Grove in my view is informal kerbside parking. Therefore, no loss of formal parking spaces arises. The applicant raised issues with regard to traffic and illegal street parking which are matters relating to traffic management and control of the public road which is for the Dublin Street Parking Services Section of Dublin City Council to enforce compliance.
- 7.2.5. Having regard to the planning history, policy and the standards set out in the Development Plan, it is my view that the widening of the existing vehicle entrance is excessive and would be contrary Appendix 5, section 4.3.1 (Dimensions and Surfacing) of the plan. Therefore, I consider that retention permission should be refused in this case and the grounds of appeal pertaining to this matter dismissed.
- 7.2.6. The issue with regard to pedestrian and traffic safety has been raised as a reason for refusal by the Planning Authority and by the observer. I have had regard to the Design Manual for Urban Roads and Streets (DMURS) in particular table 4.2 which

states visibility splays for a speed limit of 30kph should be 2.4metres from the edge of the road x 23metres in both directions which in my view is achievable.

- 7.2.7. Notwithstanding, I note the reason for refusal by the Planning Authority and the observers concerns at no.5 Hollybrook Grove regarding visibility being impaired to the south when exiting their driveway by the increased height of the existing boundary wall, fence and pier. It is my view that by reason of the height of the wall, piers and fencing fixed right up on the footpaths edge would in my view impair drivers visibility when exiting no.5 Hollybrook Grove and when exiting the appeal site which I consider is unacceptable and would in turn adversely impact on pedestrian safety in my view. Therefore, I consider that retention permission should be refused.

### 7.3. **Boundary Treatment**

- 7.3.1. The issue with regard boundary treatment was raised as a reason for refusal by the Planning Authority and by the observer.
- 7.3.2. Section 4.3.5 (Treatment of Front Boundaries) of the plan is considered to be relevant and states that: *“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”*.
- 7.3.3. The proposed development would be visible when viewed along Hollybrook Road from the approaching north and south. I am of the view that by reason of the increase height of the boundary treatment relative to neighbouring boundaries which are lower in height and the excessive widening of the vehicle entrance to 5.950metres is unacceptable and would be visually incoherent with existing front boundaries and entrances in the vicinity of the site and would be inconsistent with the character and streetscape of the Hollybrook Grove/ Strandville Road. Therefore, I consider retention permission should be refused accordingly.

- 7.3.4. Having regard to above it is my view that the entrance and boundary walls, piers and fencing to be retained would be visually incoherent with existing front boundaries and entrances in the vicinity of the site and would be inconsistent with the character and streetscape of the Hollybrook Grove/Strandville Avenue Road and in my view would not be in compliance with Section 4.3.5 (Treatment of Front Boundaries) of the Dublin City Development Plan 2022-2028. Therefore, I consider that retention permission should be refused in this instance.

#### **7.4. Other Matters**

- 7.4.1. Precedent has been raised by the applicant. It is my view the examples provided by the applicant relate to a different site context and that all applications are assessed on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development.
- 7.4.2. With regard to the fence alleged to be erected on the neighbouring boundary wall without consent. This is a civil matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

### **8.0 Appropriate Assessment Screening**

- 8.1. I have considered the development to be retained in light of the requirements S177U of the Planning and Development Act 2000 (as amended).
- 8.2. The subject site is located on a serviced site in an established urban area approximately 200metres from the nearest European Site(s) namely, the South South Dublin Bay and River Tolka Estuary SPA (0040240); The North Bull Island SPA (004006) 3.5km to the east of the site and North Dublin Bay SAC (000206) 3.5km to the east of the site.
- 8.3. The proposed development comprises the widening of a vehicular entrance and boundary treatment to serve the resident(s) of an existing dwelling. As such, the

proposed development has no hydrological or other connection to any European site. No nature conservation concerns were raised in the appeal.

8.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment as there is no conceivable risk to any European site. The reason for this conclusion is as follows - the small scale and nature of the development; the location of the development in a serviced urban area; the distance to the nearest European site and the lack of pathways; and taking into account the screening determination of the Planning Authority.

8.5. I conclude 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 a retrospective Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

## **9.0 Recommendation**

9.1. I recommend that RETENTION PERMISSION should be REFUSED for the reasons and considerations as set out below.

## **10.0 Reasons and Considerations**

1. Having regard to the Dublin City Development Plan 2022 – 2028, the Z1 zoning objectives (Sustainable Residential Neighbourhoods) and the policies regarding entrances and boundary treatments specifically Appendix 5, Section 4.3 (Parking Cars in Front Gardens), Section 4.3.1 (Dimensions and Surfacing) and Section 4.3.5 (Treatment of Front Boundaries), it is considered the development to be retained would be contrary to the relevant provisions of the Development Plan, would be visually incoherent with existing front boundaries in the vicinity of the site and would adversely impact on pedestrian safety by reason of a traffic hazard. The development to be retained would, therefore, be contrary to 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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Gerard Kellett  
Planning Inspector  
21<sup>st</sup> October 2024

# Appendix 1 - Form 1

## EIA Pre-Screening [EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>			
<b>Proposed Development Summary</b>	Retention of widened vehicular entrance and side boundaries to front garden.		
<b>Development Address</b>	4 Hollybrook Grove, Clontarf, Dublin 3, D03 WK63		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	
		<b>No</b>	<b>X</b>
<b>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?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	<b>X</b>		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>Conclusion</b>			
<b>No</b>	<b>X</b>	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>			Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_



## **Appendix 2**

### **AA Screening**

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The subject site is not located within or adjacent to any European Site. The closest European Site, part of the Natura 2000 Network, is the:

- South Dublin Bay and River Tolka Estuary SPA (0040240) 210m to the south of the subject site.
- The North Bull Island SPA (004006) 3.5km to the east of the site.
- North Dublin Bay SAC (000206) 3.5km to the east of the site

The proposed development is located within a residential area and comprises the *Retention of widened vehicular entrance and side boundaries to front garden.*

Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.

The reason for this conclusion is as follows:

- Small scale and domestic nature of the development
- The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats, absence of ecological pathways to any European Site.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.