



An
Bord
Pleanála

Inspector's Report

ABP-320534-24

Development	Protected Structure: Construction of vehicular entrance with all associated site works.
Location	Willowview, 122 Howth Road, Clontarf, Dublin 3.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4799/23
Applicant(s)	Donal Peter Duggan
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party v Grant
Appellant(s)	Anthony Fay
Observer(s)	None
Date of Site Inspection	18 th November 2024.
Inspector	Gerard Kellett

1.0 Site Location and Description

- 1.1.** The subject site relates to Willowview, No. 122 Howth Road, which is a dormer bungalow house, located within the curtilage of No. 124 Howth Road, Dublin 3 which is a Protected Structure ref. 3960 within the Dublin City Development Plan 2022-2028) and is described as “Greenmount House”, a “*Detached three-bay two-storey house, built c. 1880, having giant order pilasters giving sense of central shallow pedimented breakfront to front (south-east) elevation*”. This building has a modern single storey extension to the rear with a mono pitched roof design.
- 1.2.** The site is located to the rear of above said Protected Structure. To the immediate east is an adjoining residential apartment development at no’s 195-238 Ashbrook, Howth Road. Ashbrook residential estate is to the north and west which is characterised by red brick two storey terrace and two storey semi-detached dwellings. To the south is Howth Road which runs perpendicular to the site. Ashbrook residential estate where there is a signalised traffic light junction. The boundary treatment of the site comprises circa a 1.8metre high block wall along the northern and western boundaries. A mature hedge is along the eastern boundary of where the proposed development would be sited. There are several mature trees spread across the front area of no.124 Howth Road to the south.

2.0 Proposed Development

- 2.1.** Permission is sought for provision of a new 3.5metre wide vehicular entrance gate and piers 1.5metres high, from Willowview at no.122, Howth Road to the adjoining development address at no.195-238 Ashbrook, Howth Road (planning ref. 3234/19) to the immediate east of the subject site and all associated ancillary site works required.
- 2.2.** The residents of no’s 122 and 124 Howth Road currently have a shared entrance and driveway approved under plan ref no. 1876/99 directly to Howth Road. This current appeal before the Board is to essentially to alter this arrangement.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission on the 26th of July 2024 subject to 10no. condition(s):

Notable condition(s):

- Condition no 3: The proposed 2.6m entrance shown on the Further Information drawing 1812A-OMP-00-ZZ-DR-A-1002 (Further Information) dated shall only provide access to Willowview, 122 Howth Road, Clontarf Dublin 3. b) The existing vehicular entrance shall be closed, and a wall erected within 12 months of the grant of permission. Prior to commencement of development, details of the new wall shall be submitted for written agreement of the Planning Authority in consultation with the Conservation Section.
- Condition no 5: Details regarding materials to be submitted and agreed with the Conservation Officer prior to commencement of development.
- Conditions no.6: Retention and protection of existing trees on site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planner's Report forms the basis for the decision; the report also 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.
 - The planner refers to section 34 (13) of the Act 2000 (as amended)
- No concerns were raised with respect to AA or EIA.

- A further information request was requested by the Planning Authority under Article 33 of the Planning and Development Act 2000 (as amended) which requested the applicant submit details to the Planning Authority to:
 - Amend and remove the existing gate serving No.122 of which shall be served by one entrance only.
 - Vehicular entrance should be no greater than 2.6metres wide.
 - Applicant to demonstrate sufficient legal interest and a right of way along Ashbrook.
 - Protection measures for existing trees on site.

3.2.2. Other Technical Reports

- Transportation Report: No objection subject conditions (entrance shall be no more than 2.6metres wide as per drawing submitted via further information stage). Initial concerns about permitted development under ref: 3234/19 utilising the proposed entrance as a direct route onto Howth Road rather than through Ashbrook as permitted which is a signalised junction.
- Conservation Officer – No objection subject conditions (Details of walls, gate and piers).
- Drainage Division – No object subject to conditions.

3.3. Prescribed Bodies

- Irish Water: No comments received

3.4. Third Party Observations

4no. third-party submissions were made on the application making the following points:

- There is already adequate access from 124 Howth Road to Willowview 122 Howth Road providing access to Howth Road.

- The roads within Ashbrook are owned by Ashcourt Management Company Ltd and no consent from the Ashcourt Management Company has been given for the proposal.
- Proposal would generate additional traffic in the Ashbrook area where there is already traffic congestion.
- The subdivision of 122 and 124 Howth Road offers potential for further development in an overburdened area.
- Trees at the proposed vehicle entrance should not be cut down.
- No means to determine and restrict traffic accessing the estate leading to further congestion.

4.0 Planning History

PA REF: 1876/99 – Refers to a grant of permission in 1999 for the construction of a new dormer bungalow to the rear of 124 Howth Road, Clontarf, Dublin 3 with shared access to Howth Road.

Notable condition(s):

Condition no. 4: The existing entrance from the Howth Road shall not be altered and the existing piers and gateway shall remain as existing. The width of the existing entrance shall remain unchanged.

PA REF: 4445/09 – Refers to a grant of permission in 2009 at no.124 Howth Road (Protected Structure) for refurbishment works. Additional works include a 2.2m high stone wall to a realigned eastern boundary with the driveway of no. 122 Howth Road; Realignment of existing gates and gateposts into no. 122 Howth Road; New low wall, railings & gate - 1.8m high between front and rear gardens; Setting back and widening the existing entrance gates & piers at the front, to the Howth Road; All associated site works, landscaping and drainage.

To the immediate east

PA REF: 3234/19 (ABP ref no. 306310-20) – Refers to a grant of permission in November 2020 for demolition of the existing 2 storey detached 4 bedroom dwelling known as 'The Haven', and associated outbuildings at 126 Howth Road, the single storey detached 1 bedroom dwelling, known as 'The Lodge', Ashbrook, Clontarf as well as a single storey garage at 183-194 Ashbrook, Clontarf. The construction of a total of 44 no. apartments (11 no. studio units, 8 no. 1 bedroom units and 25 no. 2 bedroom units) across 3 no. blocks as follows: Block A - a 3 storey apartment block over basement level plant room consisting of a total of 11 no. apartments (2 no. studio units, 5 no. 1 bedroom units and 4 no. 2 bedroom units) with balconies on the south east and north west elevations; Block B - a 3 storey apartment block over basement level plant room consisting of a total of 15 no. apartments (6 no. studio units, 3 no. 1 bedroom and 6 no. 2 bedroom units) with balconies on the south east and north west elevations; Block C - a 4 storey apartment block over basement level plant room consisting of a total of 18 no. apartments (3 no. studio units and 15 no. 2 bedroom units) with balconies to all elevations; 2 no. vehicular accesses to the proposed development will be from the existing Ashbrook development with pedestrian and cyclist access from Ashbrook and from 126 Howth Road. 23 no. car parking spaces and 50 no. bicycle parking spaces all at surface level are proposed. The proposed development will also consist of associated refuse storage areas, plant, landscaping and boundary treatment, 1 no. esb substation and all associated infrastructural and drainage works necessary to facilitate the proposed development.

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”*.

The subject site is within the curtilage of a Protected Structure (R.P.S. No. 3960, 124 Howth Road, Clontarf, Dublin 3).

Chapter 11 – Built Heritage & Archaeology

- Policy BHA2: Development of Protected Structures

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 4.3.7 of Appendix 5 (Parking in the Curtilage of Protected Structures, Architectural Conservation Areas and Conservation Areas) is relevant and states: The proposed vehicular entrance should where possible, be combined with the existing pedestrian entrance so as to form an entrance not more than 2.6 metres and this combined entrance should be no greater than half of the width of the garden at the road boundary'.

5.2. Section 28 Guidelines

Architectural Heritage Protection Guidelines for Planning Authorities (2011). These guidelines outline the responsibilities of the Planning Authority in preserving the character of protected structures and conservation areas within their functional area.

5.3. 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) 950m to the south of the subject site.
- The North Bull Island SPA (004006) 2.3km to the east of the site.

The nearest Natural Heritage Areas are as follows:

- North Dublin Bay pNHA (000206) 2.3km to the east of the site.

5.4. 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.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal has been lodged against the decision of Dublin City Council to grant planning permission from the following:

- Mr Anthony Fay – No.64 Ashbrook (To the north of the site). It is noted that letters of support for this appeal have been submitted by the following Michael Dowd (No.63 Ashbrook), Trevor Robson (No.65 Ashbrook), and Martin Williams (No.68

Ashbrook). The grounds of appeal can be summarised under the following headings:

- Sufficient Consent from Landowner(s)
 - The roads within Ashbrook are private property, owned and maintained by the residents of Ashbrook through Ashcourt Management Company Ltd and traversing these lands would constitute trespass. Ashcourt Management Company Ltd would be legally obliged to obtain approval from its members for a proposed right of way. A meeting would have need to be convened and a Special Resolution passed in accordance with the Companies Act. No special resolution has been passed.
- Traffic
 - There is already adequate access from 124 Howth Road to Willowview 122 Howth Road providing access to Howth Road.
 - Proposal would generate additional traffic in the Ashbrook area where there is already traffic congestion.
 - No means to determine and restrict traffic accessing the estate leading to further congestion.
- Other Matters
 - Trees at the proposed vehicle entrance should not be cut down.
 - The subdivision of no.122 and no. 124 Howth Road will lead to further development in an overburdened area.

6.2. Planning Authority Response

None received

6.3. Observations

None received

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
- Landownership
- Access & Traffic
- Architectural Heritage
- Other Matters

7.1. Principle of Development

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. Landownership

- 7.2.1. The matter of consent from the landowner has been raised by the appellant. The appellant disputes that appropriate consent from ‘Ashbrook Management Company’ has not been obtained by the applicant to traverse the adjoining lands to access the public road.
- 7.2.2. I note a signed letter of consent from ‘Baystreet Ltd on behalf of the applicant was submitted with the application received 17th of November 2023. Furthermore, a further information request item (1(c)) *inter alia* requested the applicant demonstrate sufficient legal interest. This involved a solicitor’s consent letter from Eversheds-Suthland on behalf of ‘Baystreet Ltd’ dated the 27th of June 2024 confirming that the necessary

rights of way were agreed with Ashbrook Management Company Ltd. A letter from Anthony Fay & Company Solicitors on behalf of the appellant contests the granting of a right of way, outlining the lands and folio. Furthermore, it states no evidence of a 'special resolution' in relation to the above has been passed by the members of Ashcourt Management Company.

- 7.2.3. I am satisfied the applicant has obtained sufficient written consent for a right of way having considered all submissions. Additionally, I note the application form states the applicant is the Freeholder of the site. Thus, I am satisfied the applicant complies with Article 22(2)(g) of the Planning and Regulations, 2001 (as amended) regarding consent for the making of the application only and need not relate to the carrying out of the development. Section 5.13 the Development Management Guidelines for Planning Authorities (June 2007) supports this. Furthermore, Section 34(13) of the Planning and Development Act 2000 provides that if the applicant lacks title or owner's consent to do works permitted by a planning permission, the permission does not give rise to an entitlement to carry out the development.

7.3. Access & Traffic

- 7.3.1. The appellant has raised the issue of increased traffic resulting from the proposed development in the Ashbrook area. No supporting documentation is submitted with the grounds of appeal relating to this matter.
- 7.3.2. Ashbrook estate to the immediate north of the site is an established residential characterised by two storeys terraced, semi-detached and single storey houses. The estate road accesses onto Howth Road via a signalised junction, where 15km/h is the average speed limit within the estate. Apartment blocks allowed under ref: 3234/19 for 44 number residential units (now completed) access and egress through Ashbrook estate via a controlled access gate. I observed at the time of inspection one car parked to the eastern side of the existing property, with access and egress currently shared with no.124 Howth Road to the south.

- 7.3.3. I note a further information drawing ceasing the link between the site and no.124 Howth to the south submitted to the Planning Authority dated 27th of June. Creating a more autonomous site access which I consider is acceptable. I note no proposals to increase the number of bed spaces/persons using the site which would require the need for additional parking. Therefore, it is my view increased vehicular traffic generated would be negligible.
- 7.3.4. One vehicular entrance no greater than 2.6metres in width is proposed (after a further information request) which in my view is acceptable and in compliance with section 4.3.1 (Dimensions and Surfacing) of the Plan. Visibility splays in my view is achievable in line the Design Manual for Urban Roads and Streets (DMURS) and would not seriously impact on traffic or pedestrian safety by reason of a traffic hazard.
- 7.3.5. Having regard to the above, I am satisfied that the provision of a new entrance to the adjoining development at no.195-238 Ashbrook would not significantly increase traffic generated through Ashbrook housing estate or create a traffic hazard. I consider permission should be granted and the grounds of appeal pertaining to this matter dismissed.

7.4. Architectural Heritage

- 7.4.1. The proposed entrance is located on the curtilage of a Protected Structure. I have had reviewed the Architectural Heritage Impact Assessment submitted, which I consider acceptable. This concludes a local change will result in the appearance of the existing boundary from proposed new gate and rendered blockwork piers. It is my opinion the extend of the proposed change to the existing boundary would be minor and is not likely to cause any significant material impact on the Protected Structure of no.124 Howth Road. Dublin City Conservation Officer and the Planning Authority raised no objection subject conditions relating to finishes of the gate, walls and piers and of the new boundary wall between no.124 Howth Road. It is my view details of same can be secured by way of condition, to protect the character and integrity of the adjoining Protected Structure.

7.5. Subject to the above, I am satisfied that the integrity of the Protected Structure would not be adversely impacted by the new entrance and thus the proposal would be in accordance with Policy BHA2 (Development of Protected Structures), Section 4.3.5 (Treatment of Front Boundaries) and Section 4.3.7 (Parking in the Curtilage of Protected Structures, Architectural Conservation Areas and Conservation Areas) of the Dublin City Development Plan.

7.6. Other Matters

7.6.1. The appellant has raised the protection of existing trees on site. There are two mature trees in proximity to the proposed entrance. A tree protection plan, which I consider to be acceptable, as part of a further information response was submitted plan to the Planning Authority. It concluded the subject trees and measures to ensure their protection throughout the construction phase would be carried out. As such, I am satisfied details of same can be secured by way of condition if the Board consider this appropriate.

7.6.2. The appellant has raised a concern relating to the subdivision of the site would lead to an 'overburden' of the area. I believe the appellant is referring to potential precedent this development may set in the area. I note the appellant has not provided any evidence in support of this claim. Any future planning applications for the area would be assessed on their own individual merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development.

8.0 Appropriate Assessment Screening

Refer to Appendix 2. Having regard to nature, scale, and location of the proposed development and nature of the receiving environment and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

I recommend that permission should be granted for the reasons and considerations as set out below.

10.0 Reasons and Considerations

Having regard to the nature of the proposed development, the Dublin City Development Plan 2022 – 2028 and the policies regarding Protected Structures, entrances and boundary treatments specifically Policy BHA2 (Development of Protected Structures), Appendix 5, Section 4.3 (Parking Cars in Front Gardens), Section 4.3.1 (Dimensions and Surfacing), Section 4.3.5 (Treatment of Front Boundaries) and Section 4.3.7 (Parking in the Curtilage of Protected Structures, Architectural Conservation Areas and Conservation Areas), it is considered that the proposed development, subject to compliance with the conditions set out below, would comply with the zoning objective for the site, as set out in the Dublin City Council Development Plan 2022 – 2028, would not seriously injure the visual or residential amenity of the area, would not seriously impact on pedestrian safety by reason of a traffic hazard and 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 in accordance with the plans and particulars lodged with the application, 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 and the development shall be retained in accordance with the agreed particulars.

Reason: **In the interest of clarity.**

2. (a) Prior to commencement of development, the developer shall submit details for the written agreement of the Planning Authority which comply with the following:

- i. Details/materials of the proposed new wall between no.124 Howth Road to the south.
- ii. Details/materials of the proposed gate, piers and boundary treatment between the adjoining development at no.195-238 Ashbrook to the east.

(b) Development shall not commence without the prior written agreement of the Planning Authority and shall there after only be authorised to commence in accordance with the agreed plans.

Reason: To protect the character and integrity of the protected structure.

3. The dimensions of the entrance hereby permitted shall be as shown on drawing no.1812A-OMP-00-ZZ-DR-A-1002 dated 27th of June 2024.

Reason: In the interest of clarity.

4. The tree protection measures shall be implemented and retained throughout the construction period in accordance with the approved recommendations detailed within Appendix 2 of the further information received by the Planning Authority on the 27th of June 2024.

Reason: In the interest of visual amenity and to protect trees and planting during the construction period.

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.

Gerard Kellett

Planning Inspector

29th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála	320534-24		
Case Reference			
Proposed Development Summary	The development will consist of provision of a new 3.5m wide vehicular entrance gate and piers 1.5m high, from Willowview, 122 Howth Road, Clontarf, Dublin 3 to adjoining development address, 195-238 Ashbrook, Howth Road, Dublin 3, (planning ref. 3234/19) and all associated ancillary site works required.		
Development Address	Willowview, 122 Howth Road, Clontarf, Dublin 3.		
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	√
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	√		No further action required.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required. (Form 2)
5. Has Schedule 7A information been submitted?			
No	√	Screening determination remains as above (Q1 to Q4)	
Yes		Screening Determination required	

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 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) 950m to the south of the subject site.
- The North Bull Island SPA (004006) 2.3km to the east of the site

The development is located within a city urban location and comprises construction of a vehicular entrance with all associated site works.

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:

- The 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.