



An
Coimisiún
Pleanála

Inspector's Report

ACP 322989 - 25

Development

The installation of new inward opening gate and providing access to the rear boundary and lane with associated site works and landscaping.

Location

13 Daneswell Place, Glasnevin,
Dublin 9.

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

WEB 1897/25

Applicant(s)

Clare Gillet & Jonathon Crosby.

Type of Application

Permission.

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Fionn Mac Cumhaill.

Observer(s)

Christopher & Sinead Tongnini.

Date of Site Inspection

5th September 2025.

Inspector

Aisling Dineen

Contents

1.0	Site Location and Description	4
2.0	Proposed Development	4
3.0	Planning Authority Decision	4
4.0	Planning History	6
5.0	Policy Context.....	7
6.0	EIA Screening.....	8
7.0	The Appeal	8
8.0	Assessment	10
9.0	AA Screening.....	14
11.0	Recommendation	14
12.0	Reasons and Considerations	15
13.0	Conditions	16

Appendix 1 –EIA Screening

1.0 Site Location and Description

- 1.1. The subject site comprises of a three-storey end-of-terrace occupied dwelling located in Daneswell Place, which is a cul-de-sac. The dwelling has a narrow in-depth front garden, a side pedestrian entrance and rear garden, which backs onto the laneway to the rear.
- 1.2. This laneway also backs onto the rear of properties along Iona Road/Botanic Road. There are existing access gates and pedestrian accesses onto the lane from the Iona Road/Botanic Road properties. A similar pedestrian gate has been constructed on the adjacent property.
- 1.3. The planner's reports refers that the majority of the laneway is taken in charge by Dublin City Council. This issue is under dispute in the appeal.

2.0 Proposed Development

- 2.1. It is proposed to construct an inward opening pedestrian entrance gate to the rear of the property at No 13 Daneswell Place. The pedestrian entrance would be onto the laneway described under 1.2 above. The gate would be 2.2 metres high by 1.1 metres width. The purpose of the lane is simply stated as, 'to facilitate shorter and safer commute for primary school children'.

3.0 Planning Authority Decision

3.1. Decision

The planning authority made a decision to grant the proposed development on the 13th June 2025 subject to 7 No conditions. Conditions are of a generic nature.

The Chief Executive's decision reflects the planner's report.

3.1.1. **Conditions**

The following condition addresses a point raised under the appeal.

Condition No 7

The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers' expense.

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

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Planners Report

- The proposed development is permissible in Z1 zoning.
- Internal Departments reports have no objections subject to conditions.
- Observations are summarised which refer to; lane ownership, existing grant of permission should not justify the current application, drainage and safety issues.
- Both neighbouring properties Nos. 10 and 12 Daneswell Place have similar pedestrian gates to the rear which were granted by the Planning Authority and on Appeal to An Bord Pleanála.
- Regarding ownership, the section directly to the rear of No.13 Daneswell Place is taken in charge by Dublin City Council, therefore is not relevant to the section in ownership of the residents of Iona Road.

3.2.2. Other Technical Reports

Drainage Division

No objections subject to conditions.

Transportation Planning Division

No objections subject to conditions.

3.3. **Prescribed Bodies**

No reports received.

3.4. **Third Party Observations**

- Observation relates to ownership of lane, safety, drainage, previous deposit of materials on lane, existing permissions do not justify the proposal.

4.0 **Planning History**

There is no recent planning history relating specifically to the appeal site. However, the site was included as part of a larger site with the following planning history:

PL29N. 246124, Reg. Ref. 3666/15 The board granted permission on 8th August 2016 for a development of 131 homes on a site that includes the current appeal site.

The duration of this permission was extended under **P.A. Reg Ref 3665/15X2**.

Planning Reg. Ref. 0295/20 The council made a declaration on 12th October 2020 under section 5 of the Planning Act that the provision of a pedestrian gate from the site onto the lane to the south would not constitute exempted development because it would be an access onto a public road that was more than 4m wide.

Adjacent Site: Planning Register Reference **No 3847/20, (ABP-309562-21)**, 12 Daneswell Place. Permission for installation of a new pedestrian gate and access to the rear boundary and lane. Granted permission subject to conditions.

Nearby Site: Planning Register Reference **No 2714/21, (ABP-310927-21)**, 10 Daneswell Place, Permission for the development will consist of the installation of a new inward opening pedestrian entrance gate and access to the rear boundary and

lane with associated site works and landscaping. Granted permission subject to conditions

5.0 Policy Context

5.1. Dublin City Development Plan 2022 - 2028

The subject site is located on lands zoned Z1 (Sustainable Residential Neighbourhoods), with a land use zoning objective 'To protect, provide and improve residential amenities'.

Policy QHSN22 Adaptable and Flexible Housing aims to ensure that all new housing is designed in a way that is adaptable and flexible to the changing needs of the homeowner as set out in the Lifetime Homes Guidance contained in Section 5.2 of the Department of Environment, Heritage and Local Government's 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007) and the Universal Design Guidelines for Homes in Ireland 2015.

Policy QHSN37 Houses and Apartments is to ensure that new houses and apartments provide for the needs of family accommodation with a satisfactory level of residential amenity in accordance with the standards for residential accommodation.

SMT 1: To continue to promote modal shift from private car use towards increased use of more sustainable forms of transport such as active mobility and public transport, and to work with the National Transport Authority (NTA), Transport Infrastructure Ireland (TII) and other transport agencies in progressing an integrated set of transport objectives to achieve compact growth.

SMT 12: To enhance the attractiveness and liveability of the city through the continued reallocation of space to pedestrians and public realm to provide a safe and comfortable street environment for pedestrians of all ages and abilities.

5.2. Natural Heritage Designations

None.

6.0 EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

7.0 The Appeal

7.1. Grounds of Appeal

- DCC did not consider the private ownership of this part of the lane and did not consult with the owner and no permission for access has been granted.
- It is noted that the planners report (Section 11.2) refers that the section of the laneway directly to the rear of No 13 Daneswell Place is not relevant to the section of laneway in ownership of the residents of Iona Road. However, the section of lane which is the subject of the application is in ownership of St Lawrence O'Toole Diocesan Trust Archbishops House Dublin. There is no evidence that the registered owner of the land gave permission for this or the previous permissions granted for No's 10 and 12 Daneswell Place.
- The decision of DCC fails to address the rights of those who own the properties and part of the lane along Iona Road and Botanic Road. These rights were established when the lane was built specifically.
- Other concerns are raised under the observation to DCC. These concerns include the following:
 - Development work undertaken at No 10 and No12 Daneswell Place involved the partial blocking of the private laneway and storage building materials were on the lane, without any notice or regard for the residents of Iona Road and Botanic Road, who rely on the laneway for rear access to their property.

- Concern is raised regarding further similar development.
- There is an outlet for surface water to the rear of Daneswell Place onto the lane. In the event of a grant of permission it should be stated that there should be no outlet for surface water onto the lane.
- It is considered that an unlit laneway with no surveillance is not safe for children.
- The lane is used for anti-social behaviour on occasion.

7.2. Applicant Response

- The purpose of the gate is to facilitate shorter and safer commute for primary school children.
- The development is supported by policy as it will improve pedestrian permeability and remove pedestrians from the already congested Harts Corner (Policy SMT 18 of the Dublin City Development Plan 2022-2028).
- It is recognised that the appellants submit that they not own the laneway to the rear of 13 Daneswell Place. The applicant submits that they have no intention of using part of the lane that the appellants own.
- The appellants complaints and photos related to two separate properties, which are totally irrelevant and should be disregarded.
- Any potential works to be carried out would be in accordance with conditions set out be DCC.
- No anti-social behaviour has ever been observed on the lane. However, the presence of a gate should improve passive surveillance of the area.
- The gate would also deter people from parking in this area which would be of benefit to the appellant.

7.3. Planning Authority Response

- None

7.4. Observations

Christopher & Sinead Tongnini

- The proposed development is supported.
- Any development which enhances pedestrian permeability and draws pedestrians and small children away from busy junctions of Harts Corner should be supported. This aligns with planning and road safety policy.
- Minor works support active travel and modal shift in respect of pedestrian and safe cycling initiatives.
- No negative impacts would arise from the proposed minor development.

8.0 Assessment

Having examined the application details and all other documentation on file, carried out a site inspection, and having regard to the relevant policies and guidance, I consider that the key issues on this appeal are as follows:

- Principle of Development
- Planning History
- Policy/Use of lane
- Ownership
- Visual & Residential Amenity
- Other Issues

8.1. Principle of Development

- 8.2. The proposed development aims to simply include a pedestrian access gate to the rear of the property boundary wall in order to facilitate safer and more convenient access to school children going to/from school. The subject site is located on lands zoned Z1 (Sustainable Residential Neighbourhoods), with a land use zoning objective 'To protect, provide and improve residential amenities'. It is considered that the development of a pedestrian access to a residential property, within the subject zoning is acceptable subject to an assessment of the relevant planning criteria.

8.3. Planning History

8.4. It is noted that the Commission previously granted permission for two pedestrian accesses onto the same lane boundary at the rear of two properties at Daneswell Place, namely; No 12 Daneswell Place (ABP 29N309562) and No 10 Daneswell Place (ABP 10927). Both associated Directions under the reasons and considerations set out, inter alia, that the proposed development 'would contribute to pedestrian mobility of the area and promote travel by means of sustainable modes'.

8.5. Policy/Use of lane

8.6. The proposed pedestrian access is to facilitate rear access to the property and to avoid a busy junction at Harts Corner. Pedestrian permeability is a key pillar under Chapter 8, 'Sustainable Movement and Transport' of the DCDP. Policy Objective SMT 1 aims to promote modal shift from private car use towards increased use of more sustainable forms of transport including active mobility. Additionally, Objective SMT 12 also aims to enhance the liveability of the city through the continued reallocation of space to pedestrians and public realm inter alia. I am generally satisfied that the proposed pedestrian access, would enhance pedestrian permeability and would comply with the above stated policy.

8.7. It is apparent the lane has historically been used for rear service entries for the property along Iona Road/Botanic Road. This historic use of the lane is relevant and it is important that there would be no hindrance to normal/access for the residents along Iona Road, should permission be granted. There is no proposal for vehicular parking space along the road. The application merely requires pedestrian access. It was noted at the time of site inspection that there were no cars parked along the lane. One car did park for a few moments and departed within a few minutes.

8.8. Under the documentation submitted to the planning authority the appellant has indicated that the lane access was blocked by material during construction of an adjacent similar gate entrances along this side of the lane. The applicant argues that such occurrences were in relation to entirely different properties and cannot be considered under this appeal. I am of the viewpoint that the appellants concern is reasonable given previous alleged construction practices, albeit carried out under different developer(s). I consider that it is important that access to the lane remains

available to the current residences. For this reason, I concur with Condition No 7 as imposed by the planning authority and I would recommend that this condition be applied in the event that the Commission is mindful of a favourable decision.

8.9. Ownership

- 8.10. A point raised under the appeal refers to the ownership of the laneway. The planning authority under its report states that the section directly to the rear of No.13 Daneswell Place is taken in charge by Dublin City Council (public ownership) and does not consider this issue to be relevant to the section in ownership of the residents of Iona Road.
- 8.11. The applicants under the response to the appeal acknowledge that the appellants have conceded that they have no ownership of the lane to the rear of No 13 Daneswell Place and the applicant's response further submits that they have no intention of using the part of the lane that is under the appellants ownership.
- 8.12. The appellant acknowledges that while they have no ownership of this section of the laneway, it is argued that there was no permission on the file from the registered owner of the lane, which was required.
- 8.13. The issue of ownership of the lane was raised under the two previous adjacent appeals. A reflection of the assessment of this issue under these appeals is therefore relevant. Under ABP-309562-21, there was a dispute regarding ownership and with particular respect of the boundary wall. The issues are broadly similar under the current appeal. However, the appellant submits that the stated owner of the current section of laneway is the St Lawrence O'Toole Diocesan Trust Archbishops House, Dublin. This assertion however is contradicted by the Planning Authority as it has clearly stated that the lane way is taken in charge by the Council.
- 8.14. Under ABP-309562-21, the inspector commented 'While the board cannot conclusively determine any dispute with regard to legal interest in land in the course of a planning appeal, there are insufficient grounds to conclude that application and appeals should not be given further consideration due to any lack of legal interest in land by the applicants notwithstanding the queries raised in the appeals and

observations'. I would consider that this observation is also relevant under instant appeal.

- 8.15. Additionally, under ABP-310927-21, the issue of ownership of the laneway was again raised. The inspector also echoed the rationale presented by the previous inspector, as cited above under para 8.14. The inspector in this instance also considered cumulative impacts of the proposal, regarding potential future similar applications. He stated the following 'The facilitation of such sustainable travel patterns and pedestrian/cyclist permeability would be consistent with best design practice as outlined in local and national housing and transportation policy', and 'positive principles would apply to all the other houses at Daneswell Place and, accordingly, I would have no objection in principle to the potential future cumulative impact of similar developments'.
- 8.16. Having assessed the documentation on file, I concur with the both of the above inspector's assessments regarding land ownership/disputes. I am of the viewpoint that given the documentation on file there is insufficient grounds not to proceed with the appeal assessment. I also note that the Development Management Guidelines (paragraph 5.13) also makes the point that the planning system is not designed to resolve disputes about title to land and that section 34(13) of the Act provides that a person is not entitled solely by reason of a permission to carry out development.
- 8.17. Visual & Residential Amenity
- 8.18. The proposed development of a pedestrian gate would not threaten the privacy, security or amenity of any of the other houses in the vicinity of the site. Additionally, it is considered that the proposed works are minor in scale and the insertion of the proposed gate would not detract from the visual amenity or character of the area. The proposed development would be in keeping with the Z1 residential zoning that applies to the site.
- 8.19. Other Issues
- 8.20. The appellant raises concerns about the drainage associated with the site. I consider that drainage issues regarding the parent development have already been addressed under the relevant application. It is not considered that the development

of a pedestrian gate access would impact on the drainage regimen at the site.

However, it is recommended that a condition be applied that proposal would comply with the requirements of the planning authority for such works and services.

- 8.21. The appellant raises the issue of anti-social activity on the lane and also safety of school children using the lane. There is no evidence on the file to suggest that the lane is unsafe to use as a pedestrian lane. As there are 2 x bends on either side of the lane, traffic speeds would be low for the brief length of the lane and it is not reasonably considered that the permission of a pedestrian access gate would impact traffic or pedestrian safety on the lane.

9.0 AA Screening

- 9.1. Having regard to the minor scale of the proposed development, and to the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 Water Framework Directive

- 10.1. The subject site is located in an urban area and consists of the installation of new inward opening gate providing access to the rear boundary and lane with associated site works and landscaping.
- 10.2. No water deterioration concerns were raised in the planning appeal.
- 10.3. I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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 surface and/or groundwater water bodies either qualitatively or quantitatively.

10.4. The reason for this conclusion is as follows:

- Minor nature of proposed works and distance from water bodies combined with lack of hydrological connections.

10.5. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

11.1. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions.

12.0 Reasons and Considerations

The proposed development would be in keeping with the zoning objective Z1 'to protect, preserve and improve residential amenity' that applies to the area under the Dublin City Development Plan 2022-2028. It would contribute to the pedestrian permeability of the area and support travel by sustainable modes. The proposed development would be acceptable with regard to the safety and convenience of road users and would not injure the character of the area or the amenities of property in the vicinity. It would therefore be in keeping with the proper planning and sustainable development of the area.

13.0 Conditions

1.	<p>The development shall be carried out and completed 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 prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Drainage requirements, including surface water collection and disposal, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and to ensure a proper standard of development.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
4.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers' expense.</p>

	<p>Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.</p>
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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.

Aisling Dineen
Planning Inspector
17th September 2025

Appendix 1 - Form 1 EIA Pre-Screening

Case Reference	ACP 322989 - 25
Proposed Development Summary	The installation of new inward opening gate and providing access to the rear boundary and lane with associated site works and landscaping.
Development Address	13 Daneswell Place, Glasnevin.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	<div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 40%;"> <input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required. </div> <div style="width: 55%;"> <p>(For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources) </div> </div>
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	

<p>✓ <input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	<p>State the Class and state the relevant threshold</p>
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>State the Class and state the relevant threshold</p>

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3) <i>[Delete if not relevant]</i>
No <input type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3) <i>[Delete if not relevant]</i>

Inspector: _____

Date: _____