



Comhairle Cathrach
& Contae **Luimnigh**

Limerick City
& County Council

Seirbhísí Pleanála agus Comhshaoil,
Comhairle Cathrach agus Contae Luimnigh,
Tuar an Daill,
Luimneach

Planning and Environmental Services,
Limerick City and County Council,
Dooradoyle,
Limerick

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PLANNING & ENVIRONMENTAL SERVICES

DC-049-20/PC/CL

04th November 2020

An Bord Pleanála
64 Marlborough Street
Dublin 1

AN BORD PLEANÁLA	
DG-	032312-20
ABP-	
06 NOV 2020	
Fee: €	110 Type: Cheque
Time: 9.30	By: Post

Re: Whether the removal of portion of a public green area and the subsequent hardcoring of that portion of the green area for the purpose of providing vehicular access from the public road to the rear of a private dwellinghouse.

Dear Sir/Madam,

A question has arisen as to "Whether the removal of portion of a public green area and the subsequent hardcoring of that portion of the green area for the purpose of providing vehicular access from the public road to the rear of a private dwellinghouse" is development or is exempt development.

Planning History:

Planning Permission reference 78/275 was granted on 30th March 1979 for the erection of a 2 two storey semi detached houses. These houses were constructed at 33 and 34 Strandville Gardens, O' Callaghan Strand, Limerick. (i)The only detail available is attached

Planning Permission reference 18/849 an application for alterations and extension to dwelling, re-construct plot boundary including all associated site development works at 33 Strandville Gardens, O'Callaghan Strand, Limerick was refused by Limerick City & County Council on 22nd June 2019. Copy attached. (ii)

Planning Permission reference 19/584 for alterations and construction of an extension to the rear of dwellinghouse at 33 Strandville Gardens, O' Callaghan Strand Limerick was granted by Limerick City & County Council on was granted on 11th September 2019. Copy attached plus drawings (iii)

Mr. Jeremiah Horan commenced the construction of the development granted under 19/584 some time prior to February 2020. During construction, Mr. Horan removed a portion of an existing public green area or grass margin and then placed stone/hardcore on the portion where the grass was removed. This area is adjacent to the side boundary of 33 Strandville, Gardens, O' Callaghan Strand and is situated at Clanmaurice Avenue, Limerick. The purpose of this works was to provide vehicular access from the public road at Clanmaurice Avenue and through a pre-existing double gateway which previously allowed pedestrian access to an area of ground to the rear of 33 and 34 Strandville Gardens. This area of ground is not covered by any of the permissions 78/275, 18/849 and 19/584. Mr. Horan then used this access driveway to bring building materials in through the rear of his site. He also laid hardcore on the area of ground to the rear of his site at 33 Strandville Gardens.

The local residents on Clanmaurice Avenue then complained of these developments to the Enforcement Section of Limerick City & County Council. They were very annoyed that their green area or grass margin had been compromised by this new access driveway.

This matter was investigated by the Planning Authority and a Warning Letter was on 25th March 2020. Copy of Warning Letter and Inspector's report attached. (iv)

Following further complaints and a subsequent site inspection an Enforcement Notice was issued on 13th July 2020. Copy of Inspector's report and Notice attached. (v)

Copy site photographs are also attached. Note these photographs were taken from outside the site boundary as the Planning Authority were restricted from direct access to sites during the Covid 19 restrictions. Copies attached. (vi)

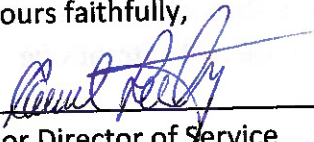
Google Street view image of the grass margin and gateway on Clanmaurice Avenue shows the area prior to the construction of the vehicular entrance. Copy attached. (vii)

Copy correspondence from residents at Clanmaurice Avenue and Council staff. (viii)--

Mr. Horan claims that his action in constructing the vehicular entrance are he believes that a right of way to the rear of no. 33 & 34 Strandville Gardens was obtained by him from previous owners in 1978 and that it was noted on his deeds of conveyance. He also claims that he has used this right of way for vehicular and pedestrian access since he purchased the property.

Any further queries in relation to this matter should be addressed to Pat Campbell,
Development Inspector.

Yours faithfully,



For Director of Service
Planning & Environmental Services

Attachments.

- (i) The only details available of Planning Reference P78/275
- (ii) Copy Planning Reference 18/849
- (iii) Copy Planning Reference 19/584
- (iv) Copy of Warning Letter & report Limerick City & County Council
- (v) Enforcement Notice & report Limerick City & County Council
- (vi) Site photographs
- (vii) Google street map
- (viii) Correspondence from local residents & Council staff
- (ix) Fee of €110

Planning Enquiry System Limerick City and County Council

Planning Enforcements Map Documents

Registration of Application

[View on Map](#) [New Enquiry](#) [IPlan](#) [Print To PDF](#)

File Number: 78770275	Applicant Name: T. Healy Ltd.
Local Authority: Limerick County Council	Development Description: PROPOSED ERECTION OF TWO TWO-STOREY SEMI-DETACHED DWELLINGS
Date Received: 11/01/1979	Development Address: STRANDVILLE GDNS/ CLANMORRIS GDNS
Type: PERMISSION	
Submissions By: n/a *	
Due Date: 10/03/1979 #	
Decision: CONDITIONAL	Number of Appeals to An Bord Pleanala: 0
Decision Date (MO): 01/01/1990	
Application Status: DECISION MADE	
Grant Date: n/a	
Further Info. Requested: n/a	
Further Info. Received: n/a	

* Submissions By Date Symbol Description
In accordance with Article 31 of the Planning and Development Regulations (2001), the Council may, on occasion, issue a planning decision within 3 days of the stated due date

LIMERICK CITY & COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT 2000 (As Amended)

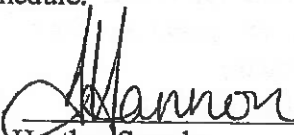
NOTIFICATION OF DECISION TO REFUSE

Jerry Horan
C/O S. McElligott,
5 High Street,
Caherconlish,
Co. Limerick.

Planning Register Number: 18/849
Application Received: 24/08/2018
Further Information Received Date: 21/02/2019 & 26/04/2019

In pursuance of the powers conferred upon them by the above-mentioned Act, Limerick City & County Council has by Order dated 22/05/2019 decided to **REFUSE TO GRANT PERMISSION** to the above named for the development of land, in accordance with the documents submitted namely:- **carrying out alterations and extension to dwelling, re-construct plot boundary including all associated site development works at 33 Strandville Gardens, O'Callaghan Strand, Limerick.** for the reasons set out in the attached schedule.

Signed on behalf of the said Council


P.Y. Heather Supple

for DIRECTOR OF SERVICES
LIMERICK CITY & COUNTY COUNCIL

Date: 22/05/2019

Under Article 20 of the Planning & Development Regulations 2001 (as amended) the applicant shall remove the site notice in respect of the application following notification of the Planning Authority's decision.

In deciding the planning application, the Planning Authority, in accordance with Section 34(3) of the Planning & Development Act 2000 (as amended) has had regard to submissions/observations received (if any) in accordance with the Planning & Development Regulations 2001 (as amended).

NOTE:

An appeal against a decision of a planning authority under the provisions of the Planning & Development Act 2000 (as amended) may be made to An Bord Pleanála at any time before the expiration of the appropriate period and on payment of the appropriate fee, by an applicant for permission or any person who made submissions or observations in writing in relation to the planning application. An appeal by a person who made submissions or observations must be accompanied by the acknowledgement of receipt of the submissions or observations from the planning authority. Any such appeal must be made in writing and received by the Board within 4 weeks beginning on the date of the making of the decision by the planning authority. The appeal must be fully complete from the start otherwise it will be invalid. It is very important to note that any appeal referrals under the Planning & Development Act 2000 (as amended) which are not accompanied by the correct fee will be invalid.

The scale of fees payable to An Bord Pleanála in respect of appeals is set out hereunder:

Case Type	Appeal received on or after 5 th September 2011
Planning Acts	
a. Application for strategic infrastructure development or a request to alter the terms of such development already permitted or approved.	€100,000
b. Appeal against a decision of a planning authority on a planning application relating to commercial development, made by the person by whom the planning application was made, where the application included retention of development.	€4,500 or €9,000 if *EIS or **NIS involved
c. Appeal against a decision of a planning authority on a planning application relating to commercial development, made by the person by whom the planning application was made, other than an appeal mentioned at (b).	€1,500 or €3,000 if *EIS or **NIS involved
d. Appeal against a decision of a planning authority on a planning application made by the person by whom the planning application was made, where the application relates to retention of development, other than an appeal mentioned at (b) or (c) (non-commercial development).	€660
e. 1 st party appeal solely against contribution condition(s) – (2000 Act Section 48 or 49).	€220
f. Appeal other than an appeal mentioned at (b), (c), (d) or (h)	€220
g. Application for leave to appeal.	€110
h. Appeal following a grant of leave to appeal.	€110
i. Referral.	€220
j. Reduced fee (payable by specified bodies).	€110
k. Submissions or observations (by observer) on strategic infrastructure development applications, appeals and referrals.	€50
l. Request from a party for an oral hearing.	€50
*EIS - Environmental Impact Statement **NIS - Natura Impact Statement	

Submissions or observations on appeals made by third parties must be received by the Board within 4 weeks from the receipt of the appeal by the Board and the fee in this case is €50. Development consisting of the provision of two or more dwellings is classed as commercial development for the purposes of an appeal.

Should you wish to make an appeal, the following documents are available on www.pleanala.ie

- A Planning Appeal Form/Checklist and
- A Guide to making a Planning Appeal.

Appeals should be addressed to An Bord Pleanála, 64 Marlborough Street, Dublin 1.

PLANNING REGISTER REFERENCE NO. 18/849

SCHEDULE

1. The proposed development represents a detached independent unit within the curtilage of a dwelling and it is considered that the precedent which a grant of permission would set for a similar type of development would result in haphazard, disorderly development which given the nature of the development is out of character with existing pattern of the area. The proposed development would therefore injure the amenities and depreciate the value of properties in this area and be contrary to the proper planning and sustainable development of the area.
2. The planning authority is not satisfied that the applicant has demonstrated sufficient estate or interest in the relevant land to enable him to carry out the proposed development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

