

5 Clanmaurice Gardens
Ennis Road
Limerick
Eircode: V94TK8N
19/01/21

AN BORD PLEANÁLA	
LDG-	_____
ABP-	_____
20 JAN 2021	
Fee: €	_____ Type: _____
Time: _____	By: <u>Post</u>

An Board Pleanála
64 Malborough Street
Dublin 1

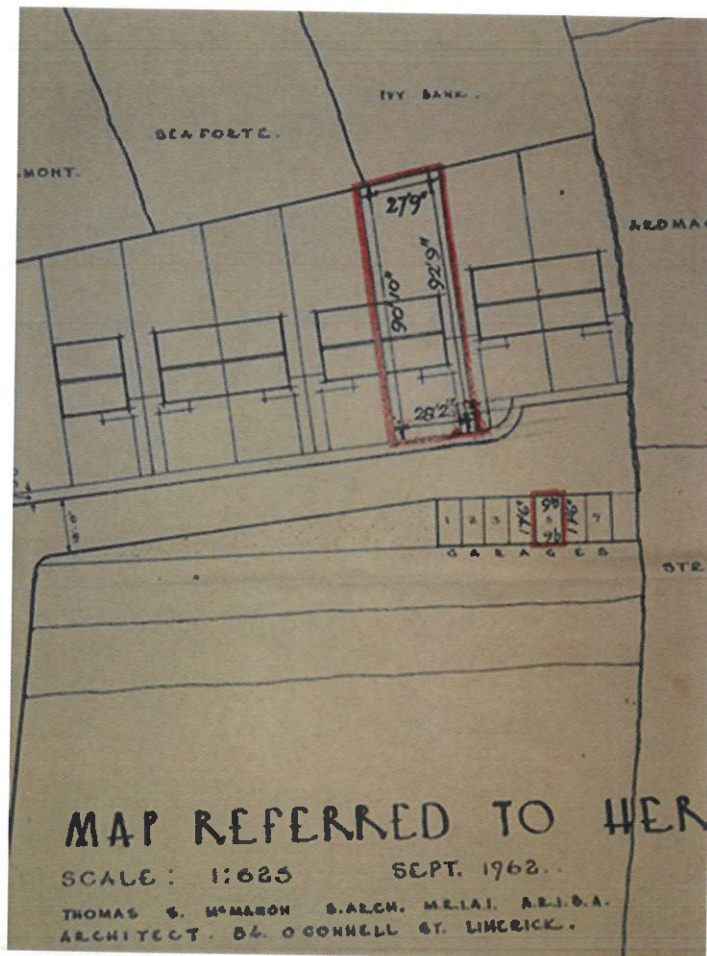
Re: Referral No. / Your case Number: **ABP-308613-20**

Whether the removal 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 house is or is not development or is or is not exempted development. 33 Strandville Gardens, O'Callaghan Strand, Limerick.

Dear Sir/Madam,

Thank you for sending on the associated documentation. We wish to submit the following in relation to this matter.

I am the owner and an original resident of 5 Clanmaurice Gardens since 1963. Directly across the road and in full view from my house is a public green area which spans almost the length of Clanmaurice Gardens. This area has been grass cut maintained by the Council for decades. The council also maintain the adjacent roadway in terms of resurfacing and yellow lines, and so the area has been taken in charge by the council. I have six children who have played on and observed the green area throughout the 60's, 70's, 80's and 90's. Children from Clanmaurice Gardens, Clanmaurice Avenue and Strandville Gardens (North, West and East of this green area respectively) have enjoyed this amenity since the 1960's. The green area is also enjoyed by many parents, children and their pets that pass through this quiet cul-de-sac on a regular basis. It is the only public green area off road amenity for all of the residents of Clanmaurice Gardens and Clanmaurice Avenue. It should be noted that some of the existing green area at the eastern end is owned by the 7 house owners and the remainder is a public amenity space. Please see attached from 5 Clanmaurice Gardens deeds.



- In February 2020 Mr Horan, who is a non-resident landlord of 33 Strandville Gardens, proceeded to remove the topsoil, and hardcore a section across the public green area in Clanmaurice Gardens, in order to facilitate vehicular access to the rear of 33 Strandville Gardens. Some years earlier Mr Horan had attempted to do the same thing. Residents complained to the planning authorities and the process was subsequently reversed, with the reinstatement of this section of public green area. We do not believe that Mr Horan has any planning permission to develop this area.
- Mr Horan claims that he has a Right Of Way to the rear of 33 Strandville Gardens, that the Right Of Way into the rear of 33/34 Strandville Gardens was obtained from the then owners in 1978 and subsequently noted on the deeds of conveyance, and that he has used that right of way for vehicular and pedestrian access every year since he purchased the property in 1979, and carried out maintenance that was essential to that use. We feel that there is an onus on Mr Horan to prove this alleged Right Of Way. We have seen no evidence of this Right Of Way.
- Firstly, in relation to Mr Horan's claim of ownership to 33 Strandville Gardens since 1979. We were very surprised to hear this. From our observations at the time, and the best of our knowledge, we remember that a Mr Reidy had 33/34 Strandville Gardens built. He was regularly seen at the site during construction, and subsequently lived in 33 Strandville

Gardens for a considerable number of years afterwards. Mr Reidy's son currently owns No.34 Strandville Gardens according to what we have been told. Is there evidence that Mr Horan has owned this property since 1979?

- We dispute Mr Horan's claim to vehicular and pedestrian access to the rear of 33 Strandville Gardens every year since 1979. Prior to the recent construction development to the rear of 33 Strandville Gardens, and contrary to Mr Horan's claim, neither I nor any of my children have ever witnessed Mr Horan's or any other vehicle accessing the rear of 33 Strandville Gardens from Clanmaurice Gardens. In addition we have never seen Mr Horan accessing on foot prior to the recent construction. Many of our long standing neighbours in Clanmaurice Gardens will attest to this also.
- In relation to pedestrian access, it's surprising that Mr Horan would need to access the rear of 33 Strandville Gardens from Clanmaurice Gardens, as direct access has always been readily available from the front of 33 Strandville Gardens. He did however decide to submit for planning for an extension design that cut off this direct external access, and planning permission was granted (19/584). We believe that Mr Horan's property extension may now prevent direct external access to the rear of no. 33 from Strandville Gardens from the front.
- Mr Horan's application of hardcore/chippings was in part used to facilitate the levelling and compacting of the ground behind the gates across the rear of 33/34 Strandville Gardens. For a great many years after 1979, there was a difference of several feet in the level between the ground outside and inside the entrance gateway across the back of 33/34 Strandville Gardens. The surface was topsoil and vegetation. This would have made vehicular access to the site extremely difficult indeed. It's hard to imagine driving a vehicle out of this every year since 1979.
- Mr Horan was issued with a WARNING LETTER dated 25/3/20, in relation to construction of an entrance driveway from the public roadway on Clanmaurice Gardens across a public grass margin. Mr Horan was issued with an ENFORCEMENT NOTICE dated 13/7/20 requiring him within one month of notice service to 'remove the unauthorised hardcore'. To 'return the area to public green area by levelling, topsoiling and seeding the area to the satisfaction of the Planning Authority'. As can be seen from the photos below, a considerable amount of enabling works took place subsequent to these notices from Limerick County Council.

These pictures also show multiple consignments of gravel that were required behind the gates to create a slope adequate for a motor vehicle to gain access and must in addition call into question Mr. Horan's assertions that he had previously gained vehicular access through these gates since 1979.

PLANNING & ENVIRONMENTAL SERVICES

DC-049-20

Jeremiah Horan
17 Revington Park
North Circular Road
Limerick

WARNING LETTER

**UNDER SECTION 152(1) OF THE PLANNING AND DEVELOPMENT ACTS
2000 as amended**

Dear Sir/Madam,


- (A) You are the owner/occupier of certain lands, situate at 33 Strandville Gardens, O' Callaghan Strand, Limerick (hereinafter referred to as "the said lands") which lands are shown coloured red on the map attached hereto.
- (B) It has come to the attention of Limerick City & County Council as the Planning Authority that an unauthorised development may have been/is being/or may be carried out on the said lands, namely construction of an entrance driveway from the public roadway on Clanmaurice Gardens across a public grass margin and non compliance with condition no. 9 attached to Planning Permission reference 19/584.
- (C) You being the person served with this warning letter may make submission or observations in writing to the said Planning Authority regarding the purported offence referred to in paragraph (B) not later than four weeks from the date of service of this warning letter

- (D) You are advised that if the said Planning Authority considers that an unauthorised development is being carried out an Enforcement Notice under the provisions of Section 154 of the Planning and Development Act 2000 as amended may be issued.
- (E) Officials of the said Planning Authority may at all reasonable times, enter the said lands for the purposes of inspection.
- (F) We also wish to point out that in the event of the Court holding that an offence has been committed under Section 151 or Section 154 you can be liable: -
- a. On conviction on indictment, to a fine not exceeding €12,697,380.78, or to imprisonment for a term not exceeding 2 years, or to both, or
 - b. On summary conviction, to a fine not exceeding €5,000, or to imprisonment for a term not exceeding 6 months, or to both.
- (G) The costs reasonably incurred by the said Planning Authority in relation to Enforcement proceedings may be recovered from you in the event of an Enforcement Notice being served on you or where a Court action is taken.

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

Dated this 25th day of March 2020

Signed on behalf of the said Council.



For Director of Service
Planning & Environmental Services

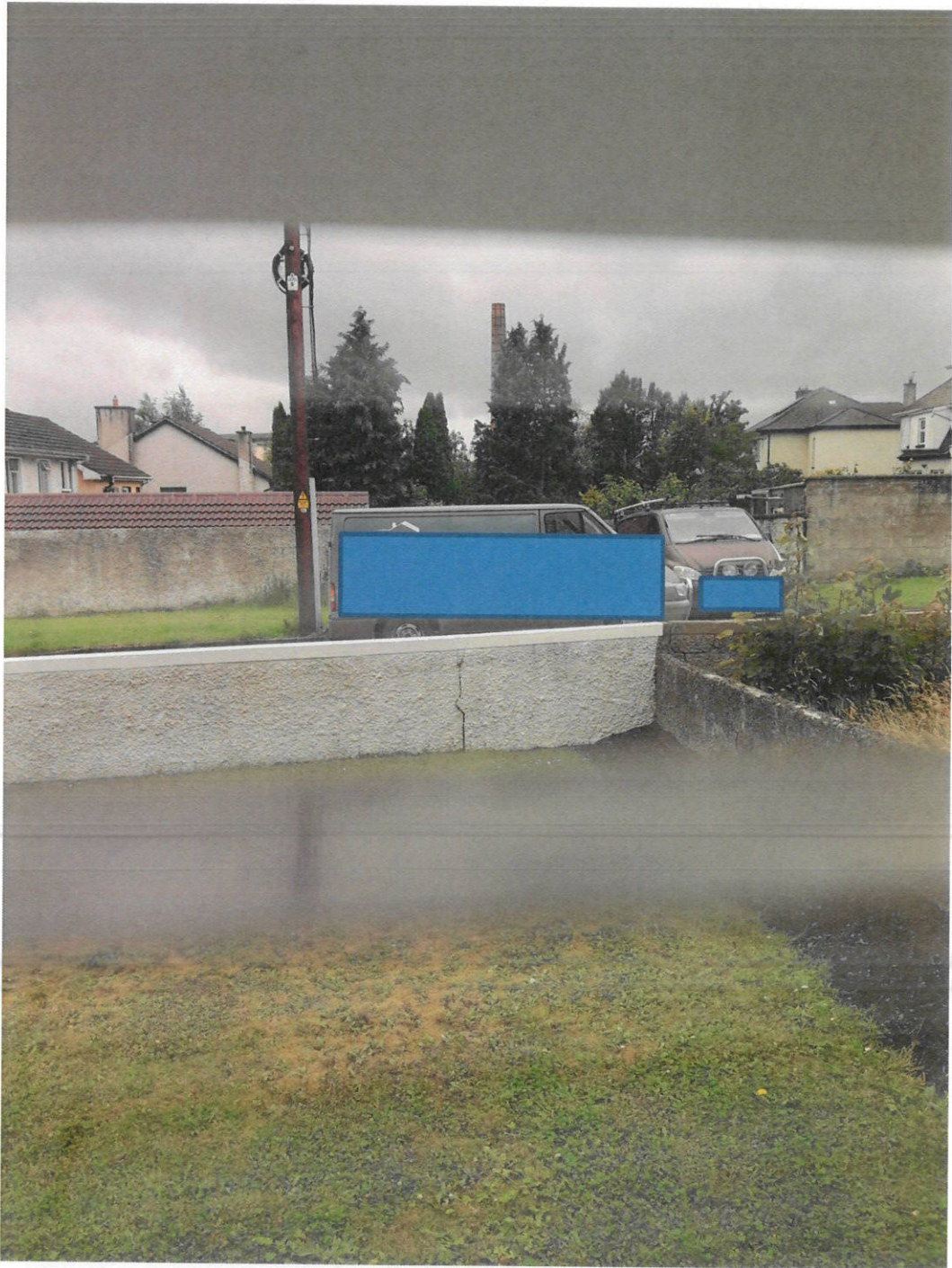
WARNING LETTER issued 25th March 2020



17th June 17:04.



25th June 13:56. Ground marked out by Building Contractor for 14ft wide vehicular entrance.



30th June 2020 14:04. Vans parked on public green area and illegally on double yellow lines.



30 June 2020 18:18. Excavator arrives.



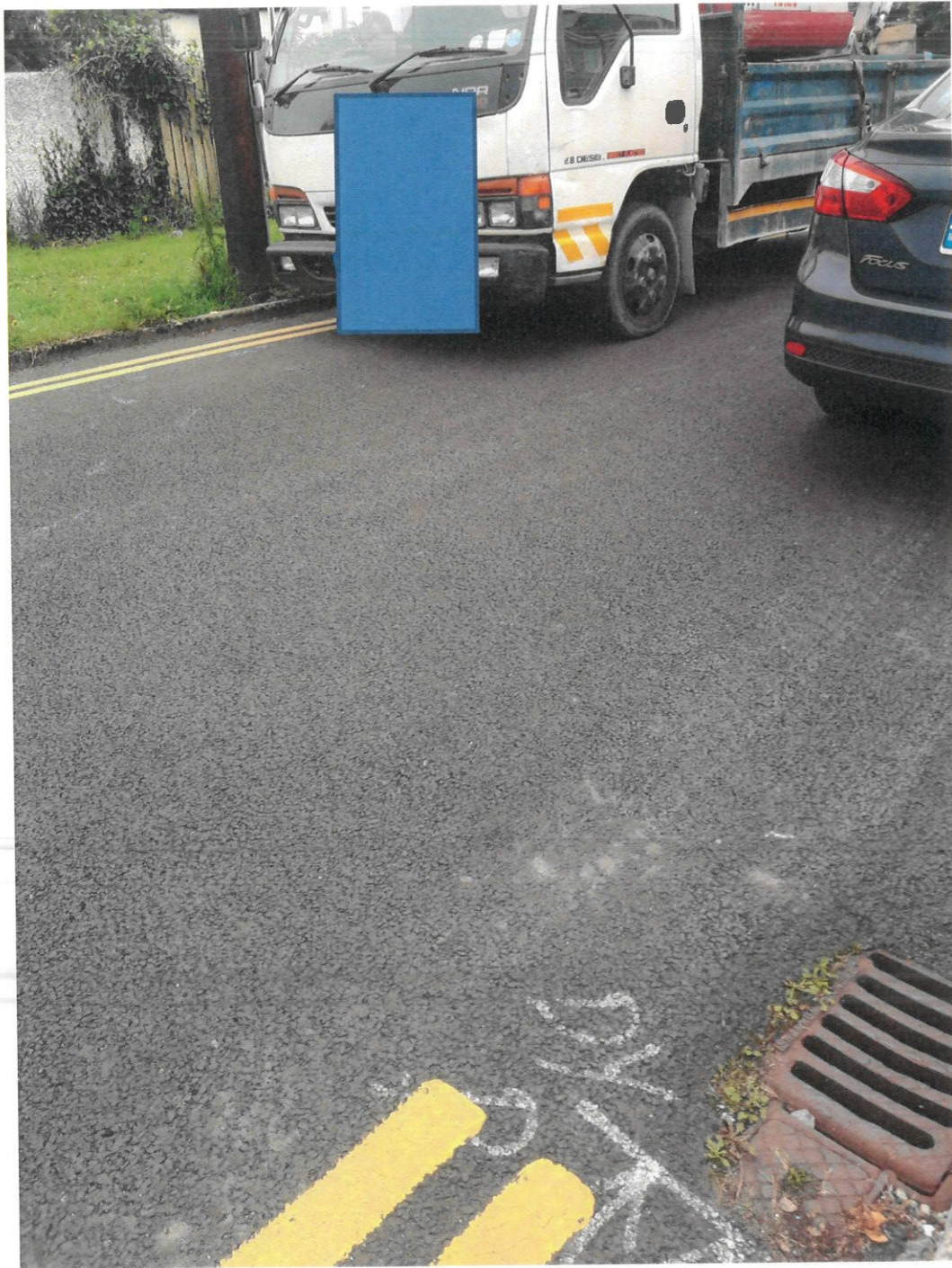
30th June 2020 18:52. Excavator digging up public green area along blue line markings.



30 June 2020 19:03. Excavator with bucket in motion dropping gravel load dangerously close to concerned neighbour as one of the Excavator crew looks on. No construction safety signage, safety cones or tape.



30 June 2020 19:14. Excavator spreading and compacting gravel.



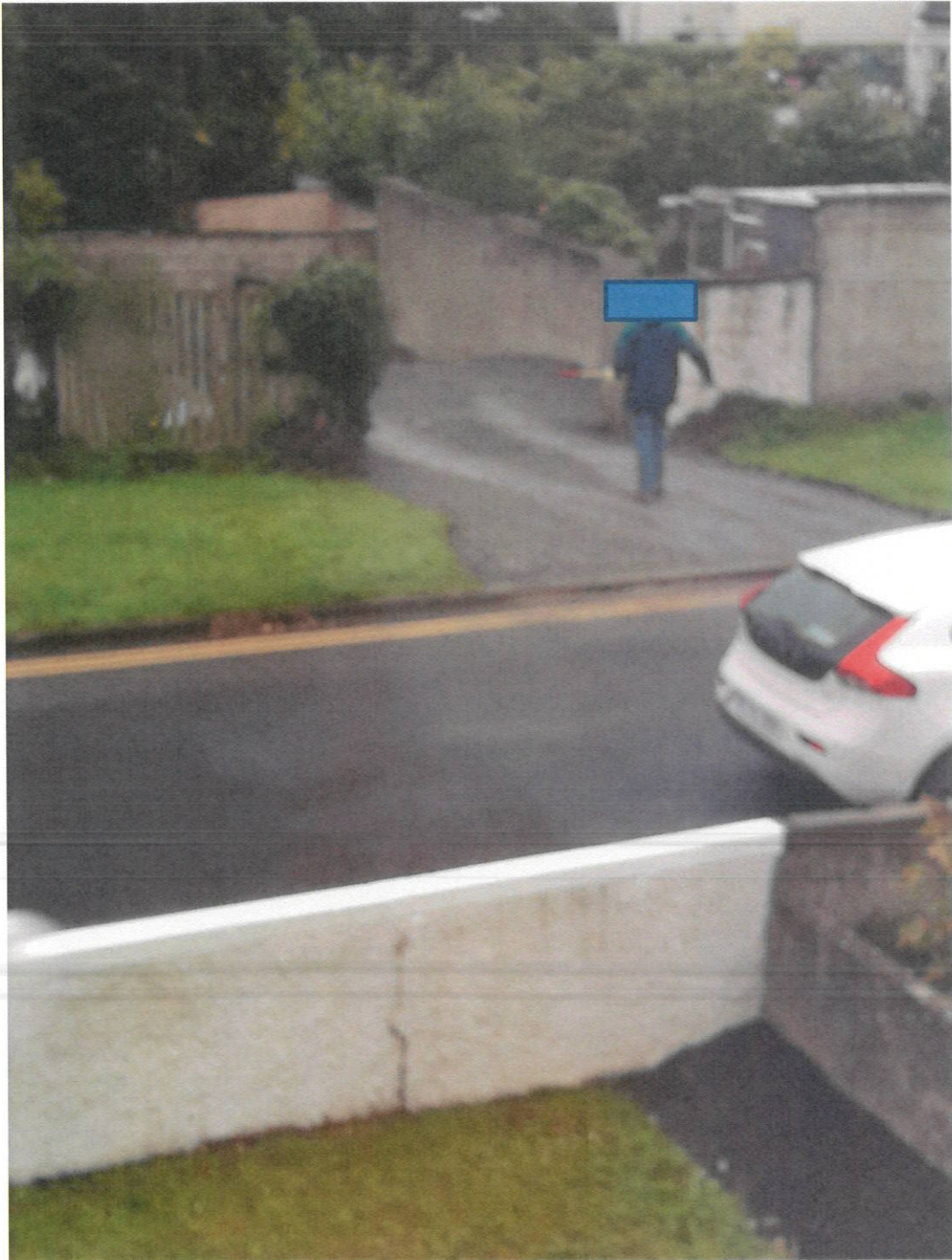
30 June 2020 19:22. Illegally parked truck blocking vehicular access on Clanmaurice Gardens roadway.



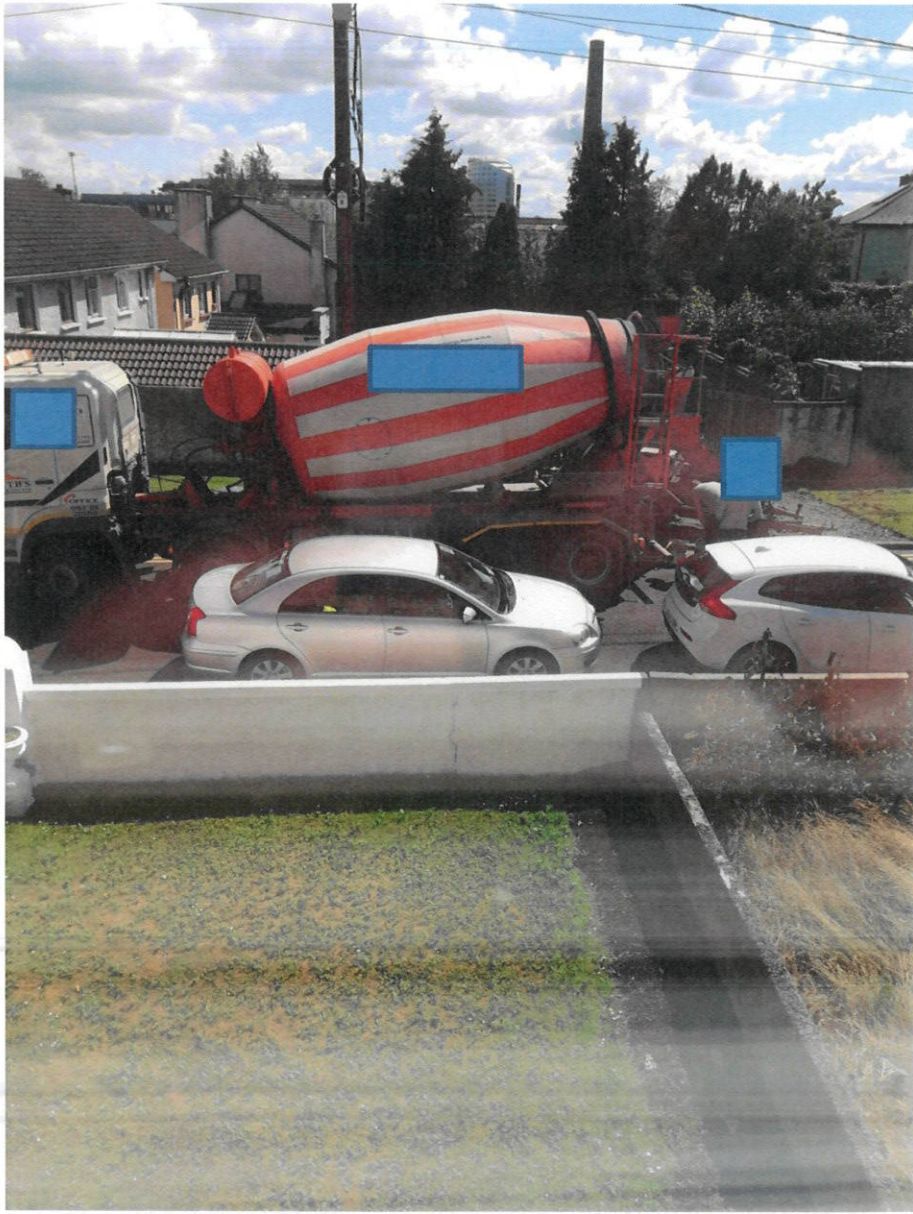
3rd July 11:52. More gravel being spread by Mr Horan.



3rd July 12:02. Gravel being compacted by Mr Horan.



3rd July 12:30. Gravel compaction completed by Mr Horan.



9th July 16:54. Cement truck offloading to cement conveyor.



9th July 17:09. Cement truck blocking vehicular access.

PLANNING & ENVIRONMENTAL SERVICES

DC-049-20

REG POST:

Jeremiah Horan
17 Revington Park
North Circular Road
Limerick

ENFORCEMENT NOTICE

**UNDER SECTION 154 OF THE PLANNING AND DEVELOPMENT ACTS
2000 as amended**

The City & County Council of Limerick, the Planning Authority for Limerick,
hereby gives you notice that you have carried out development of lands namely:

Alterations and construction of an extension to the rear of the property situate at
33 Strandville Gardens, O' Callaghan Strand, Limerick more particularly described
on map annexed hereto (hereinafter referred to as "the site") authorised by
Planning Permission reference no. 19/584.

WHEREAS the development has not been carried out in compliance or
conformity with the said Planning Permission in so far as **condition no's 1 and
9 attached to the said permission have not been complied with.**
**Also the removal of portion of the public green area and the
subsequent hardcoring of the portion of public green area for the
purpose of providing access from the public road to the rear of your
property.**

FURTHER TAKE NOTICE that you are required within **one month** and
thereafter of service of this notice (hereinafter called "the Notice period") to:

- (i) **Remove the red coloured roof tiles and replace with dark
coloured tiles as agreed under plans submitted in order to
comply with condition no. 1 attached to the said Planning
Permission.**

- (ii) **Submit a site specific waste management plan for the recovery/disposal of all wastes arising from the demolition, refurbishment and /or construction related activities of this development in order to comply with condition no. 9 attached to the said Planning Permission.**
- (iii) **Remove the unauthorised hardcore.**
- (iv) **Return the area to public green area by levelling, topsoiling and seeding the area to the satisfaction of the Planning Authority.**
- (v) **Refund to the Planning Authority the costs and expenses of €400 incurred to date in the investigation/detection and the issuing of Enforcement proceedings. Please note that, in the event of non-compliance, you may be liable to additional costs.**

You are further warned that under the provisions of Section 154(5)(c) of the Planning & Development Acts 2000 as amended that if you do not fulfill the above requirements within the Notice period then the Limerick City & County Council may enter on the site and take such steps in order to carry out the above works and may recover any reasonable expenses incurred.

You are further advised that under the provisions of Section 154(5)(d) of the said Planning & Development Acts 2000 as amended that you will be required to refund to the Planning Authority the costs and expenses reasonably incurred by the Authority in relation to the investigation, detection and issue of this Enforcement Notice (and any warning letter issued under Section 152 of the said Acts) including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisors.

Finally, the Planning Authority is obliged to warn you as the person served with this Enforcement Notice that if, within the Notice period specified the steps that you are required to carry out in compliance with this notice are not taken, that you may be guilty of an offence under the provisions of the Planning and Development Acts, 2000 as amended.

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

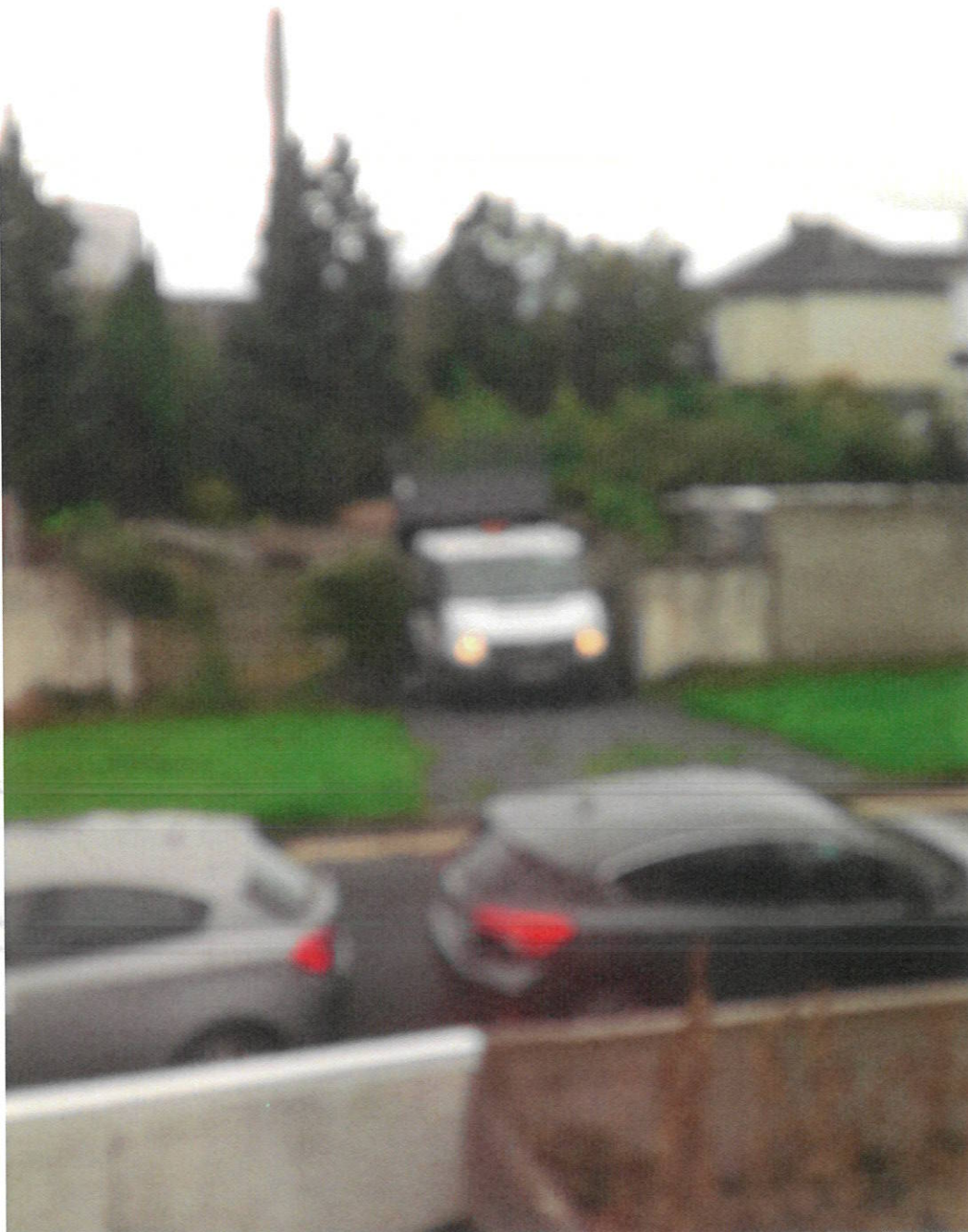
Dated this 13th day of July, 2020

Signed on behalf of the said Council:

pp V. Ronan

For Director of Service
Planning & Environmental Services

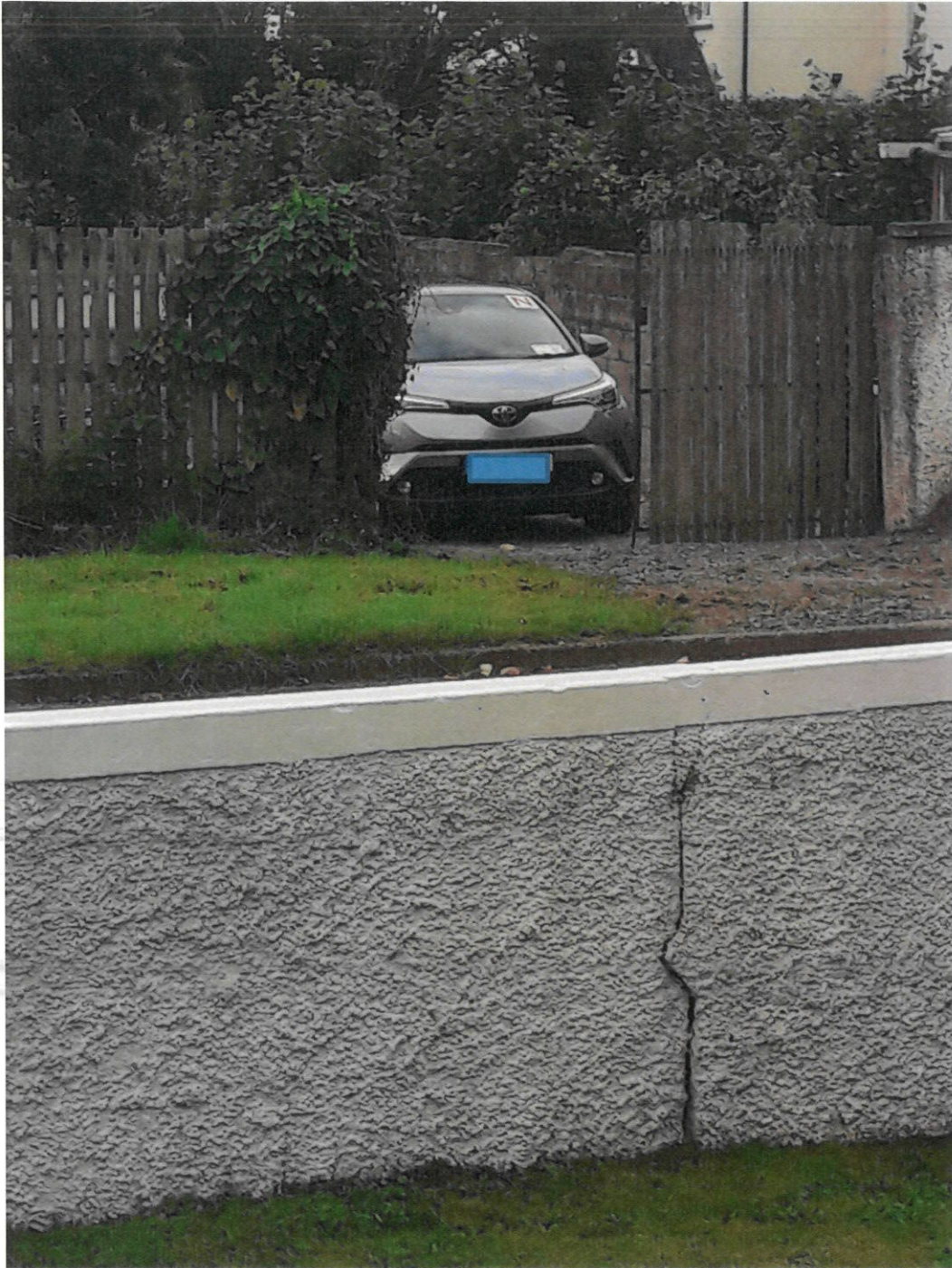
ENFORCMENT NOTICE issued 13th July 2020



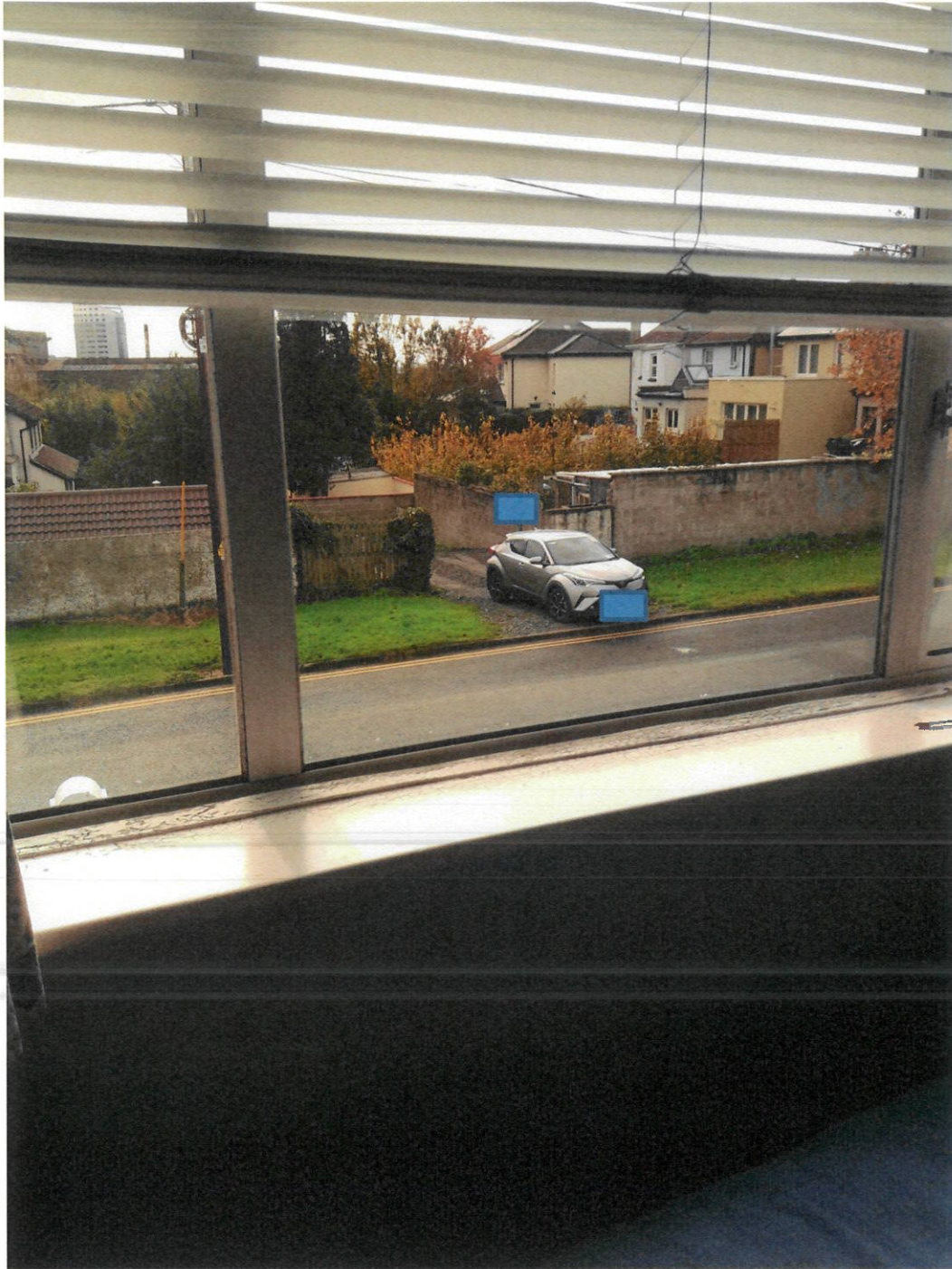
25th July 2020 12:25. Tipper truck dropping another gravel load.



28th July 2020 10:53



22nd September 2020. Green area still not restored. Access driveway in use by Mr Horan.



24th October 13:51. Green area still not restored. Access driveway in use by Mr Horan.



1st December 2020 11:53. Strandville Gardens neighbour delivering gravel to site using unauthorised driveway.



5th December 2020.



8th December 2020 10:41. More gravel loads follow. More driveway access usage by Strandville Gardens neighbour.



23rd December 2020. Resulting outcome of gravel loads delivered by this date.

A basic review of the chronology and details of this case would indicate that Mr Horan's Modus Operandi appears to involve pushing the limits of the spirit and intent of the Planning Permission process to, and beyond, breaking point. While it is acknowledged that each case may be viewed in terms of its own merits, Mr Horan's history and record in terms of dealing with the planning process, over and above this particular issue, would appear to leave this in little doubt.

On behalf of Clanmaurice Resident's Association - who are actively involved in applying for formal recognition.

Yours sincerely,

Sylvia Considine & Family (owner and resident 5 Clanmaurice Gardens)
Avril Considine (owner and resident 3 Clanmaurice Gardens)

Mary Tucker

From: Bord
Sent: Friday 22 January 2021 09:16
To: Appeals2
Subject: FW: Response to Referral Number ABP-308613-20
Attachments: Response to Referral Number ABP-308613-20 from Sylvia Considine.docx

From: Clive.Considine <Clive.Considine@ul.ie>
Sent: Thursday 21 January 2021 17:55
To: Bord <bord@pleanala.ie>
Subject: Response to Referral Number ABP-308613-20

Dear Sir/Madame,

Please find attached response to referral No. ABP-308613-20, send on behalf of Sylvia Considine, 5 Clanmaurice Gardens, Ennis Road, Limerick. I would appreciate it if you could please confirm that you got this, as I'm worried about the large file size. A hard copy was sent on Tuesday. Thank you for your time on this matter.

Yours Sincerely,

Clive Considine

Cora Franklin
6 Clanmuarice Gardens
Lower Shelbourne Road
Limerick

V94472F

12/01/2021

Karen Byrne

Executive Officer
An Bord Pleanála
64 Marlborough Street
Dublin 1

D01 V902

Dear Karen Byrne:

Please find enclosed our reply to **correspondence**, which includes our submissions and observations in relation to this case reference number: ABP-308613-20.

Sincerely,



Cora Franklin

on the behest of the residents Clanmuarice Gardens

AN BORD PLEANÁLA	
LDG-	_____
ABP-	_____
13 JAN 2021	
Fee: €	_____ Type: _____
Time: _____	By: <i>reg post</i>

Reference Document on Mr. Horan comments listed as follows:

1. DC-049-20/PC/CL:

Mr Horan claims that he used vehicle access to the rear of his property since 1979 this is not factual. In 2005 Mr Horan first tried to install a hardcore driveway from Clanmuarice Gardens to the rear of his property. But was stopped when the residents complained to the Planning & Development dept at the time which forced Mr Horan to reinstate the grass area. (Confirmation document attached of objection) He has not been using this makeshift entrance since that time until this new development 2019/20. He has however constantly parked on double yellow lines (pictures of his cars over the years attached) In Clanmuarice Gardens and then access his property in 33 Strandville Gardens through his front entrance where ample space exists to park two cars, which would avoid causing obstruction in Clanmuarice Gardens. By parking In Clanmuarice Gardens Mr Horan is not adhering to the "rules of the road" relating to parking in a restricted area.

2. CRM-410632/ CRM 410632

Reference to the first paragraph on the issue of Waste. Mr Horan had an articulated truck with a grabber enter the grass area in Clanmuarice Gardens and remove the existing sheds of concrete, brick, and galvanised construction at rear of 33 Strandville Gardens prior to Planning being refused on his first Planning application reference 18/849.

- The facts that Mr Horan refers to in this letter are not factual and are total fabrication.
- He has not used the entrance every year since his purchased the property as a non-resident as stated above.
- Why did an appointed Chartered Engineer and contractors under Mr Horan's direction did not comply with the Health, Safety, and Welfare at Work Act with reference to this construction site which is mandatory under the law. See Health, Safety and Work Acts, recommended good building practice, with the reference highting Regulations with respect to rules and directives that prescribe certain types of conduct. ... Other important regulations relevant to the construction industry include: Construction (Design and Management) Regulations (CDM Regulations) Construction Products Regulation CPR 2015 all ignored.
- No prior warnings of heavy construction vehicles entering Clanmuarice Gardens, blocking entry and exists from dwellings. The Garda had to be called many times during this construction to allow residents access from their homes. Because of illegally parked vehicles on double yellow lines, in the Grass area and in front of residential driveways. (pictures attached)
- No warning notices of pending or actual works erected.
- No fencing or screens erected to protect the residents or public from the site entrance and actual site.
- Laying hardcore in a green amenity area were children and grandchildren played, was total unsafe. Since the construction began no one could allow children and grandchildren access to this area because of the hardcore present I personally picked up nails, screws, and plastic waste on this entrance totally hazardous for children.
- The construction workers on this site parked when and where they felt like, they never wore masks or social distanced themselves as was required by Covid 19 rules, putting themselves and elderly residents are risk.

- As for intimidation of the workers this is another falsehood, some of the workers were extremely aggressive to our objections to the construction and illegally parked construction workers vehicles. There are cases where construction workers with Mr. Horan in attendance shovelled stones onto the feet an elderly resident and intimidated her with a mini digger. (picture attached)
- Mr. Horan did not comply with the waste management protocol left debris on the grass area and at times on the road. (picture attached) Removed waste prior to planning being granted.
- One occasion Mr Horan drove his vehicle from the rear of 33 Strandville Gardens onto the hardcore and struck a resident who was standing on the hardcore surface, an ambulance and Garda were called. (case pending)
- Mr Horan tenant and previous tenants have never access 33 Strandville Gardens from the disputed entrance from Clanmuarice Gardens.
- A third of the grass are in Clanmuarice Gardens is owned by the residents relating to garage spaces allotted. The existing residents refrained from erecting garages to maintain the green area as an amenity. The grass area is the only amenity in Clanmuarice Gardens and Avenue as a play area and was used until this construction began.
- Mr Horan writes about his lawful rights, but he illegally parks his cars, damaged and altered the original Party boundary wall over the years. (pictures attached)
- Access to the site entrance where Mr. Horan has tried to expand over the years, is now unsafe during the day and night (pictures attached) where anyone could enter onto an unsafe site, clearly breaking the above-mentioned rules and regulations.
- Making it impossible for anyone to leave children or grandchildren out of their homes to avail of the amenity. We have been held by Mr Horan and his contractor's discretion to access our homes since this construction began in 2019.
- Over the years Mr Horan has downgraded the area and Party Boundary by reconstructing part of the boundary wall without permission. Removing the Party Boundary wall capping in places. When a tree became uprooted in his property and knocked part of the wall, he reinstated that section with a timber fence.
- For Mr Horan to say he accessed the rear of his house through these gates over the years is another falsehood. The drop behind the gates would have make it unfeasible to drive a vehicle further than the gates to inside his property.
- Installed a water meter and pipe work on the Clanmuarice Gardens green area to his property without applying for planning permission.
- As a non-resident of Clanmuarice Gardens, Mr Horan showed nothing but disdain for the residents of this area. I as resident of over 31 years and the present residents never wanted to get into any dispute with Mr Horan or anyone for that matter. We have lived in a quiet residential area with good neighbours without any disputes over the years except for Mr Horan a non-resident of 33 Strandville Gardens which is a completely different residential area.
- Clanmuarice Gardens was constructed in 1964 and Mr Horans house at 33 Strandville Gardens as from your records was built in 1979. Please note that a Party Boundary existed since Clanmuarice Gardens was constructed (this green has been an amenity since 1964) as can be seen from the drawings that form part of the deeds from these houses.

I have attached several pictures of the site entrance and the area concerned for your review.

Boundary infractions over the years 2005 to present:

The residents of Clanmuarice Gardens reside opposite a boundary wall separating 33 StrandVille Gardens from Clanmuarice Gardens wish to draw your attention to the current structural state of this boundary wall. The Owner: non-resident Landlord of 33 StrandVille Gardens and his agents have over a period, altered, and remodelled the structure of the boundary wall in a non-professional manner.

Herein are our observations with pictorial attached reference:

1. A portion of the wall was removed and rebuilt at a reduced height, without Planning permission. Ref: Pic 1.
2. A water main was installed through the green area from Clanmuarice Gardens under the Boundary wall to the rear of 33 StrandVille Gardens. At the time *Irish Water were notified of this development but it failed to take any action. Since then, Irish water have stated in writing that they nothing of this installation. This water pipe was installed under the boundary wall which now shows signs of structural decay.* Ref: Pic 2.
3. Agents working for the owner removed the capping from a large section of the boundary wall again effecting the walls long term structural durability. Ref: Pic 3.
4. During high winds, a tree at the rear of 33 StrandVille Gardens blow down and damaged a section of the boundary wall. The tree was removed and instead of replacing the boundary wall a timber fence was erected in its place. Ref: Pic 4.
5. The residents objected to the Owner installing a vehicle access point from Clanmuarice gardens to the rear of 33 StrandVille Gardens in 2005. It was reported to the Council who halted the development and ground reinstated. The timber gates that were installed as part of this entry point are at still in place, the wall and support wall have not been reconstituted. Ref: Pic 5. Note: The owner regularly parks his vehicle in Clanmuarice Gardens where parking is probated (double yellow lines in place). And walks to the Rented dwelling in 33 Strandville where's there ample parking in his property but he chooses not to use it.

Yours Sincerely,

Clanmuarice Gardens Residents



Pic 1

Removed part of the Boundary wall and replaced with a smaller structure, without Planning permission.

Pic 2.



Fisher appeared both on the wall and the opposite pier after water meter installed

Water main installed to 33 StrandVile not approved by Irish water. Under the Boundary wall

Pic 3.



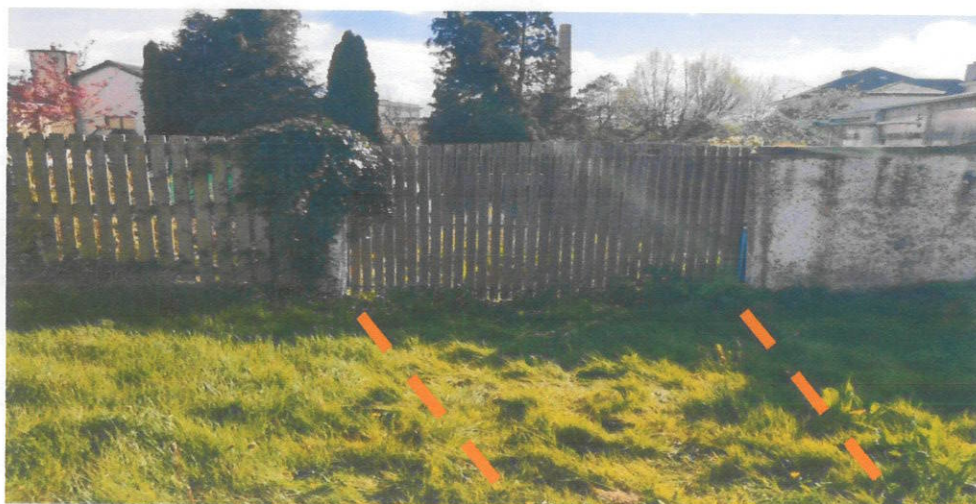
Capping removed and not replaced, again effecting the sustainability of the wall.

Pic 4.



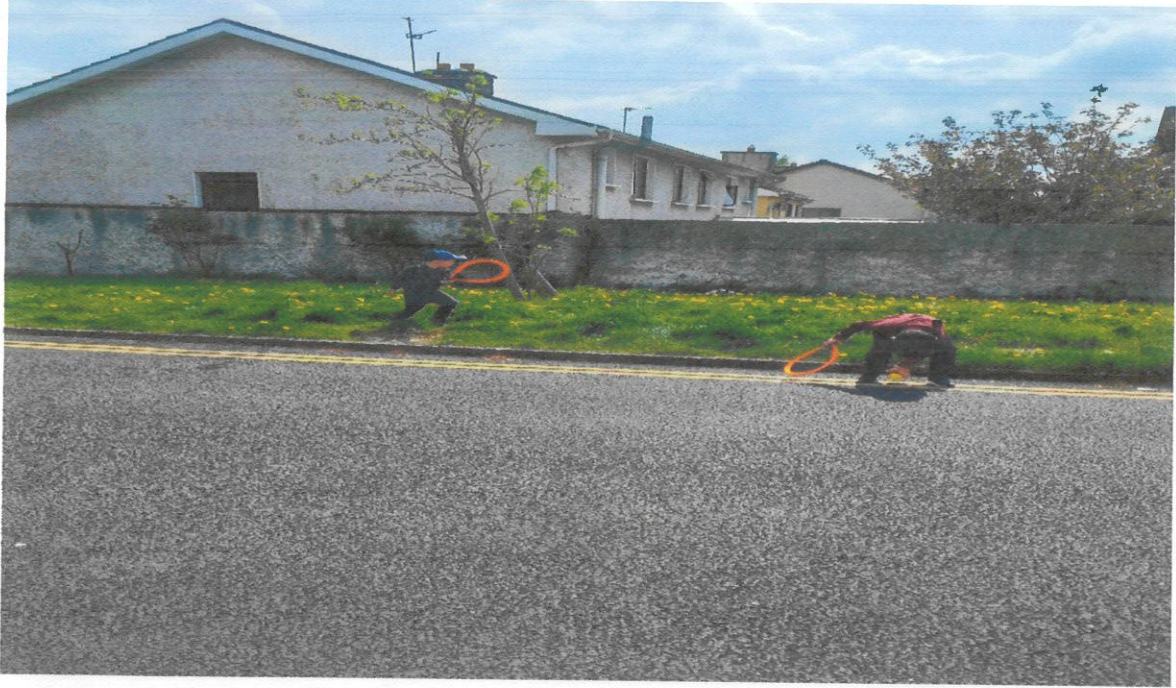
Timber structure installed after tree knocked wall

Pic 5.



A Road access point which was in the process of development when stopped by City Council in 2005 and grass area reinstated.

Sample pictures & Comments



Where once children and Grandchildren could play in the area, this has stopped because of the dangerous construction site.



Intimidation of residents when they tried to object.

Sample pictures & Comments



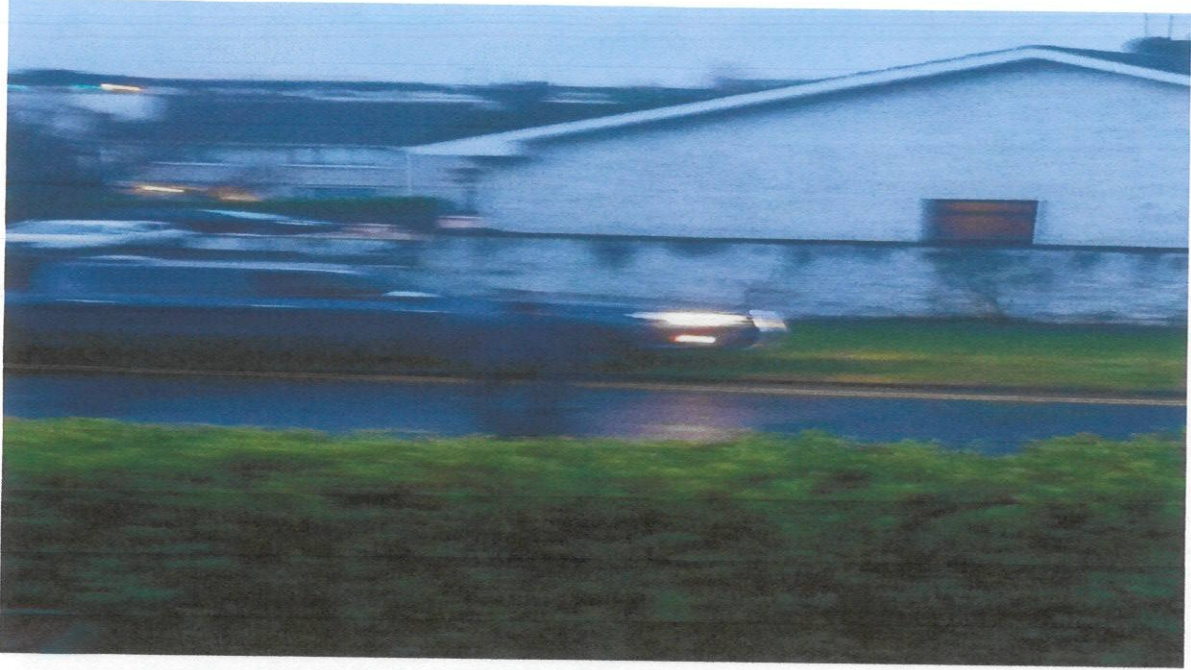
Exit from homes blocked.

Sample pictures & Comments



Sample pictures & Comments

Damage to the green areas daily

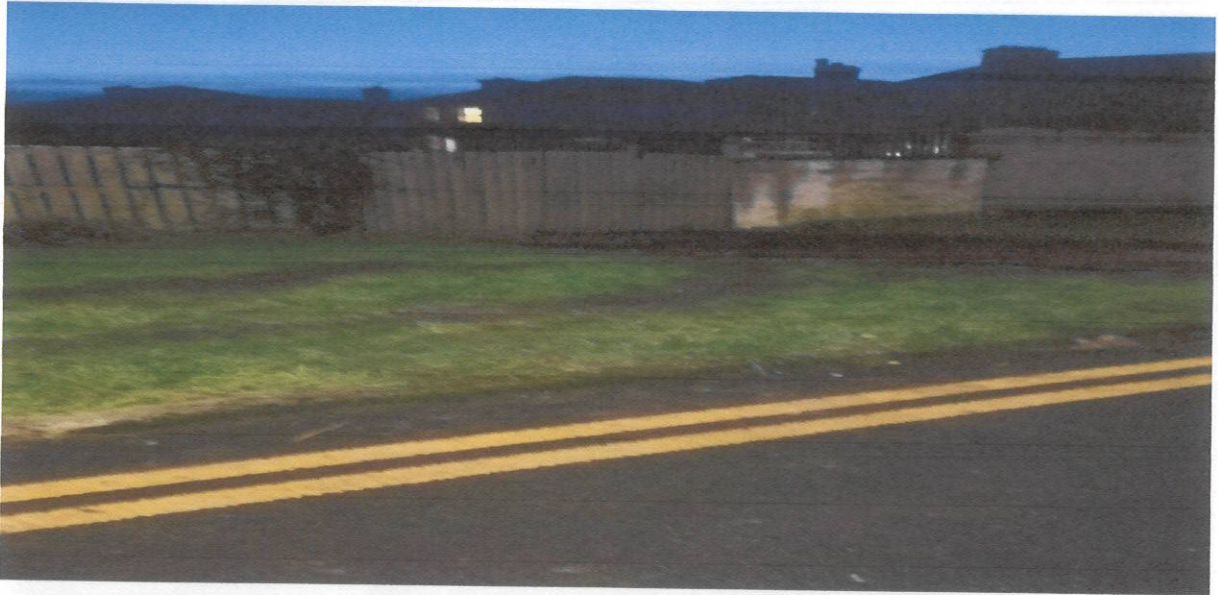


Construction vehicles driving on the green area and no clean-up protocols employed



Sample pictures & Comments

Damage to green area and roadway not cleaned as required by planning. Driving heavy vehicles over essential services.



Sample pictures & Comments



Sample pictures & Comments



Mr Horan car in 2018



Sample pictures & Comments

Mr Horan car in 2020



Mr Horan Car exiting the rear of 33 Strandville Gardens into Clanmuarice Gardens showing no regard for the rules or road traffic laws.

Sample pictures & Comments



The amount of soil left by Mr Horan which he states left at the sides of this entrance is a fraction of the earth removed to create this driveway. He also delivered large quantities of hardcore deposited inside the gates at the rear of 33 Strandville Gardens to try to level the ground to correspond to the ground level in Clanmuarice Gardens. There-by constructing a driveway and potential parking area to the rear of 33 Strandville Gardens contrary to his planning permission.



Sample pictures & Comments



Gates left open and unattended, extremely hazardous to the residents and public.

Sample pictures & Comments



Sample pictures & Comments

In December 2020, the non-resident of 32 Strandville Gardens has been delivering and trying to raise the ground level to the rear of his property to correspond to the ground level created by Mr. Horan.

This individual has driven over and illegally parked in the area and has shown no regard for the residents or rules in relation to parking or working in an unprotect site.



This vehicle was used in 2018 to remove existing construction without Planning permission being granted. Or notifying the ESB Networks of the presence of such a vehicle in proximity to ESB overhead lines and Pole. The ESB require contractors or members of public to notify the ESB of such works near their equipment.

The vehicle shown above used many times during the construction phase for delivering hardcore and removing of waste from the site.

Sample pictures & Comments



Deeds showing ownership of garage areas contrary to Mr Horans claim that no one owns the green areas. Clear Boundary shown.

Please note that the resident's homes at Clanmuirice Gardens were constructed in 1964. The residents house of 32/33 Strandville Gardens were constructed in 1979. As shown a Clear Party Boundary existed in 1964, fourteen years before 32/33 Strandville Gardens.

Mr Horan did not purchase 33 Strandville Gardens 1979 but purchased it several years later, proving that he's entrance was constructed by him and not there from the inception of the new build.

17 Revington Park,
North Circular Road,
Limerick,
25/11/20

Case No. ABP-308613-20

Mary Ledwith,
Administrative Assistant,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902

Re: Whether the removal of a public green area and the subsequent hardcoring of that portion of a green area for the purpose of providing vehicular access from the public road to the rear of a private house is or is not development and is or is not exempted development.

33 Strandville Gardens, O' Callaghan Strand, Limerick

Dear Ms Ledwick,

I refer to your letter dated 11/11/20 and I wish to make the following submissions/observations.

I am the owner of 33 Strandville Gardens and I have a right of way over the portion of green area referred to above. My neighbour, Michael Reidy, who owns the adjoining house at 34 Strandville Gardens has the same right.

The right of way was obtained in writing on 27/11/79 from the owners of the land and I attached a copy of the relevant document (App. 1) and accompanying map (App. 2). The map shows that the width of the opening is 15 feet, so it is clearly granted for vehicular access.

I have used that right of way for both vehicular and pedestrian access every year since I purchased the property in 1997 and carried out maintenance on it as the need arose. That included the placing of hard core and gravel on the area in question and additional topping from time to time to facilitate vehicular access.

Earlier this year, I carried out similar maintenance work on the area to facilitate vehicular access to the building site and prevent soiling of the public road. I did this in part to ensure compliance with Sections 2.c and 3 of the Second Schedule of the planning reference 19/584.

In the letter dated 4/11/20 which you received from Limerick City and County Council, it is stated (paragraph 5) that the work I carried out was to provide vehicular access 'through a pre-existing double gateway which previously allowed pedestrian access to an area to the rear of 33 and 34



Strandville Gardens'. This statement is incorrect because the access in question was never limited to pedestrian use. The double gateway is clearly designed for vehicular access.

At Paragraph 6, the letter states that the local residents on Clanmaurice Avenue complained of these developments to the local authority because they 'were annoyed that their green area or grass margin had been compromised by this new access driveway'. This characterisation of their complaint is misleading and I am attaching (App. 3) correspondence they sent to the Council on 7/9/18 which shows that they are in fact claiming ownership of the area in question and denying the Council's assertion that it is a public area.

In a letter to me dated 9/7/20, Mr Paul O'Grady the Senior Executive Engineer at the Planning & Environmental Services Department claimed that the area was 'Council-owned' but I have challenged that assertion and furthermore, I understand that the Council do not have documentation to show that the area was taken in charge.

It is my view that agents of the Council have weighed in on one side of what is essentially a civil dispute relating to a right of way and the question submitted to the Bord that is slanted in a certain direction. The Council is banking on a positive answer that can be used as retrospective endorsement of the actions it has already taken.

Yours sincerely,

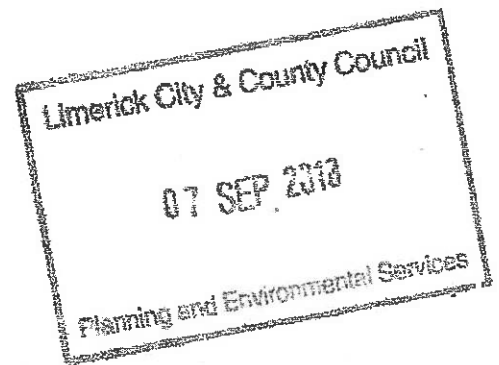
Jeremiah Horan

OBJECTING TO A PLANNING APPLICATION NUMBER: 18849

From the Residents Clanmuarice Gardens the Undersigned

Receipt Cash Office number: LA25/0/25/099585

Pictorial Reference A1 to A4 attached



Dear Planning Department

The residents of Clanmuarice Gardens reside opposite the proposed development site and are writing to ask, that you refuse this planning application in its current form from Mr. Jerry Horan who submitted the Application.

Herein are our observations and objections relating to this planning application.

1. The green area is listed in the Planning Application as a public area, this is not the case. The area shown on the submitted drawings is in part designated into seven parcels of land that are allotted to the dwellings in Clanmuarice Gardens as per of the deed of sale of said properties at the time of purchasing these dwellings (Reference 1A attached). The aforementioned parcels of lands were designated in the Land Registry after construction as garage sites. These sites are assigned in part to the dwellings in Clanmuarice Gardens. The space allocated in ref: 1A for example is part of the dwelling at 6 Clanmuarice Gardens which is filed with the Property Registration Authority, reference Landlord and Tenant (Ground Rents) (no2) Act 1978 Ground Rents Section, reference 15GR00830. Any alterations to the boundary shall effect the designated Property Registration and resale value of these dwellings.
2. The proposed build will encroach on our property as we understand it by 1.4 meters.
3. The boundary wall in question is the registered boundary between Strandville and Clanmuarice Gardens Ref: A2 which we object to being altered or changed.



Comhairle Cathrach
& Contae Luimnigh

Limerick City
& County Council

Seirbhísí Pleanála & Comhshaoil
Comhairle Cathrach & Contae Luimnigh
Tuar an Dáil
Luimneach
V94 WV78

Planning & Environmental Services
Limerick City & County Council
Dooradoyle
Limerick
V94 WV78

Mr. Jeremiah Horan
"Finchley"
17 Revington Park
North Circular Road
LIMERICK
V94 VKK7

Date: **Thursday 9 July 2020**

Our Ref.: **CRM 410632**

Insp. No.: **29094**

Sent by: **REGISTERED POST**

Ref: Section 14(5) of the Waste Management Act, 1996 (as amended)

Re: Construction Works at no. 33 Strandville Gardens, North Circular Road, Limerick V94 E7RN

Dear Mr. Horan,

I refer to the works being undertaken by you at no. 33 Strandville Gardens and an inspection I undertook on Friday last, 3rd July, 2020, during which I took the photographs included below.

The nature of these works, which appear to have included not only the importation of a substantial quantity of "fill" material but also the removal of soil and "construction and demolition" waste by parties unknown, is of serious concern to the Council.

I am, therefore, issuing you with a direction under Section 14 (5) of the Waste Management Act, 1996 (as amended) to undertake the following measures within **15 days** of the date of service of this Direction:

- 1) Arrange for the removal of the "fill" material you have laid on the Council-owned grass margin at the north (Clanmaurice Gardens) side of the property, as photographed below. This material must be removed by an appropriately permitted waste collector and disposed of, fully in accordance with the Waste Management Act, 1996 (as amended).



Continued Overleaf >

AN BORD PLEANÁLA
LDG- 033264-20
ABP- _____
03 DEC 2020
Fee: € 50 Type: CH2
Time: _____ By: Exp Post

50 Monaleen Park,
Castletroy,
Limerick,
Date 1/12/20.

Re Referral reference number ABP-308613-20, Clanmaurice Avenue Limerick.

To Mary Ledwith An Bord Pleanala

Dear Ms Ledwith,

I wish to make a submission in relation to the above referral from Limerick City and Co Council.

Interest :

I own house no 34 strandville Gardens and the house is served by the rear access passage, which is the subject of the referral.

Background :

In 1978 I submitted and received planning permission for two semi detached houses at Strandville no's 33 and 34. Which is more than forty years ago. This permission included access to the back off Clanmaurice Avenue. The assess was for provision of a garage in my instance and off street parking. For the purpose of this access I obtained permission from Portland Estates, the developers of Canmaurice avenue to develop a vehicular access onto the road. This permission was submitted as part of the planning application. Plans of the garage were not included as a garage was largely exempt, but the outline of where it was to be located was included in the plans as far as I recall.

In the course of development the area between the road and the site was hardcored to allow permanent access to the site and allow development of the rear in accordance with the permission granted. I retained ownership of house no 34 and lived there for seven years. My parents owned and moved to no 33. My entitlements for access consist of the letter from Portland estates which is clear and what it is, a retained right of way to my site and my house site outlined in red on map attached.

The rear access between the road and site was not blacktopped. The whole development was fraught with objection and animosity from residents in Clanmaurice Avenue. As I would be living there and particularly my parents would be there for the rest of their lives, it was decided to keep things as low key as possible in the hope that we could settle in to the neighbourhood and develop friendly relationships with our neighbours. With this in mind the entrance gates were sized adequate to allow free vehicular access. A second set of gates were provided at my end to ensure security and the privacy of my house, again these were adequate to provide for cars and other vehicular access.

In the initial years the rear access was used extensively for hobbies and as needs be. Over the years since, the rear access was used as and when required but not as much as the house was rented and tenants had only occasional need and were not encouraged to use it as I wanted to go in and out. For the most part they did not have cars. I myself used it whenever and for whatever need I had.

The section at Clanmaurice and 15 ft access driveway were given additional hardcore topping occasionally from time to time to allow vehicular support and access and whatever other needs.

The hardcore in itself is insufficient to suppress grass growth. Over a relatively short time , grass cuttings , leaves and moss build up and grass re-establishes itself. My son has moved in some three

months ago and consequently I would expect the back driveway will be used far more frequently in accordance with normal family use and the growth suppressed. A high quality finish now would be preferable and it would be desirable if such could be agreed to reasonable satisfaction all round.

The Referral :

The question raised by the Council is incomplete, reflects an underlying intention and leads to the impression that a new crossing of an open space has been made. It undermines the fact that it was already installed and permitted. A fair question would reflect the full circumstances of the situation.

If the question put to the Board was 'is it exempt to remove incidental grass growth over an established access for the purpose of upkeep and maintenance', would the question even be raised.

1 It is incorrect to state that the access was only used for pedestrian access, it is and has been used for vehicular access as and when needed without restriction, let or hindrance for over forty years.

2 It is incorrect to state that topsoil was removed now for the purpose of vehicular access at this time, the topsoil insofar as it existed then, was removed forty years ago to provide vehicular access.

3 It is incorrect to state that the access is to house no 33 and not include 34 which is clearly involved.

4 It is incorrect to state that the area of ground was not covered in planning permission 78/275. The planning permission to develop the rear access could and would not have been obtained without Portland estates leave being part of the submission for planning permission in the first instance.

5 It is incorrect to state that the access is exclusively Public Open Space green and implying that Public Open Space was being interfered with. The access was provided many years before the road was taken in charge and it would have been clear that the access was there at taking in charge time.

6 It is incorrect to imply that the entire strip is taken in charge. Others claim ownership to the south and it is understood they hope to develop this area for garages or perhaps parking at some stage.

7 It is incorrect to state that Mr Horan obtained a right of way in 1978. The house next door no 33 was sold to Mr Horan some fifteen years ago, together with the entitlements enjoyed by no 33.

This access in no way conflicts with the current development plan or the proper planning and development of the area which calls for two car parking spaces for four bedroomed houses and a properly developed accessible access, which in many instances requires permission for the removal of front boundary walls and the hardcoring of limited private open space. The underlying rationale behind the original permission P78/275 regarding the entrance was to allow for access, to have off street parking and garage development, which otherwise could not be provided for. Walls defining the boundary of the passage and entrances were constructed clearly indicating it's use and purpose.

The difficulty is that it was not possible to negotiate with the intransigence encountered which sets out to stymie the access being finished off to a modern standard. The problem and fear here is an adverse decision by the Board will be enforced by the local Authority and used to de facto rescind retrospectively a permission granted, developed and used over a period in excess of forty years and have the effect of a revocation order and limiting access and use of the access for normal purposes. An adverse decision also would be considered in relation to any future proposal for the house as, in the context of the wording of the referral, would involve development over a Public Open Space.

Yours Sincerely,
Michael Reidy
Michael Reidy.

encl : original Portland Estates Permission and map.

Map of my site now (red) and wayleaves (yellow).



PORTLAND ESTATES (LIMERICK) LTD.

P. 7/8/275

PORTLAND ESTATES (LIMERICK) LTD.

Registered Office Hours:
10 a.m. - 5.30 p.m. Weekdays.

MIRETTE HANLEY, Managing Director
G. J. FITZGERALD, Director



2nd FLOOR,
100 O'CONNELL STREET,
LIMERICK.

TELEPHONE 43233
MC/MH

27th November 1978.

Mr. Michael Reidy,
Shelbourne Park,
Limerick.

Re: Our Land at Clanmorris Gardens.

Dear Sir,

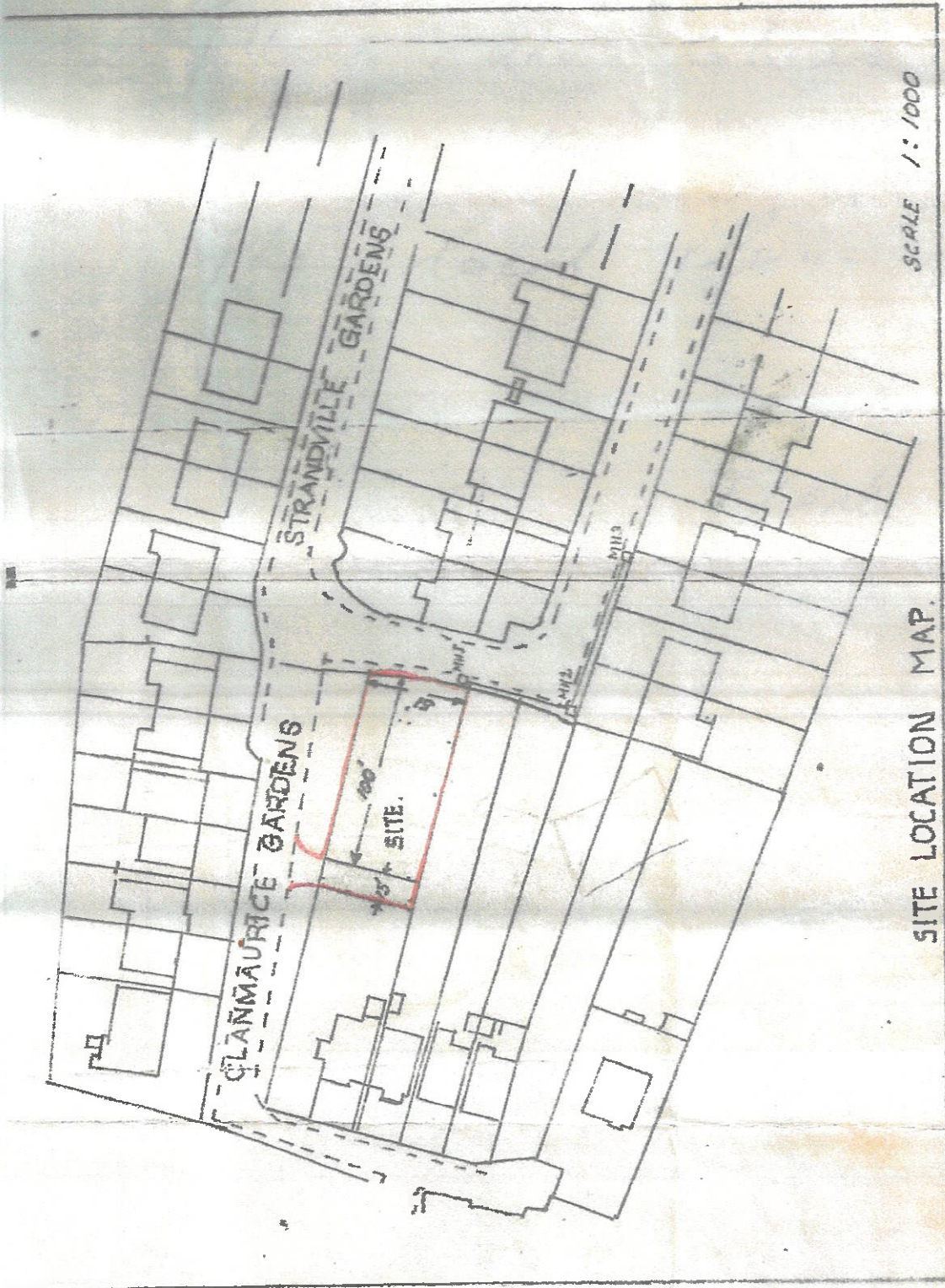
I wish to confirm that the above Company have decided to facilitate you in respect of an entry through the above lands, as per enclosed drawing.

Yours faithfully,

Mirette
Mirette Corboy,
Managing Director.

Registered in Dublin Ireland No. 21359 Registered Office 100 O'Connell St., Limerick.

Registered in Dublin Ireland No. 21359 Registered Office 100 O'Connell St., Limerick.

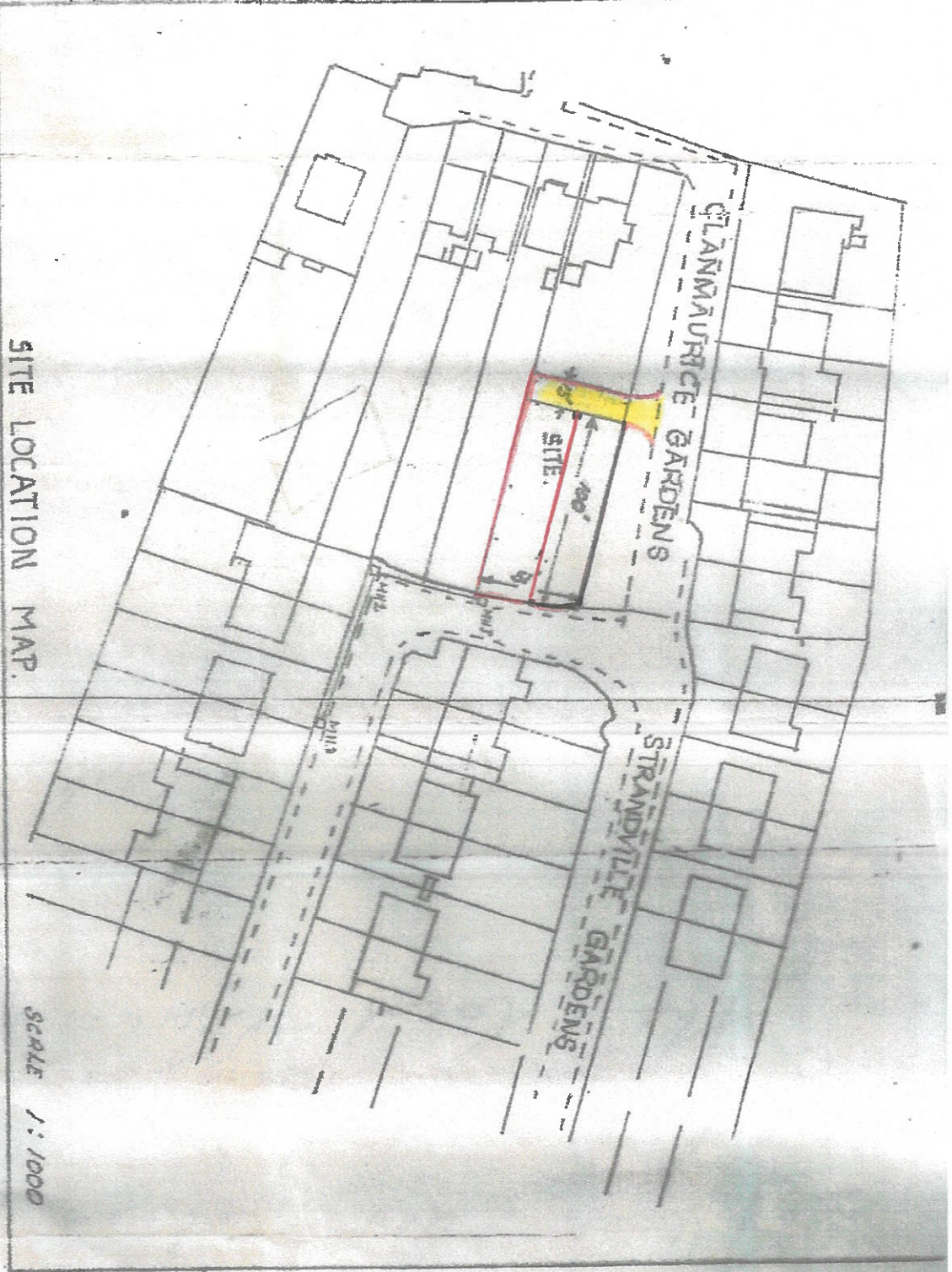


SCALE 1:1000

SITE LOCATION MAP



SITE NO 34 STRANDVILLF GARDENS



SITE LOCATION MAP.

SCALE 1:1000

