

STEPHANIE REGAN and LIAM SCOTT

9 Kilbarrack Road,
Raheny,
Dublin 5

Eircode: D05 VX00

Date: 12/09/2024

Email: [REDACTED]

To :

The Secretary,
An Bord Pleanála
64 Marlborough Street,
Dublin 1
Eircode D01 V902

AN BORD PLEANÁLA	
LDG-	074823-24
ABP-	
12 SEP 2024	
Fee: €	220.00 Type: card
Time: 13.12	By: hand

References: Dublin City Council Application Number 0236/24
Application type : Section 5
Decision date 29 August 2024
Decision order P4333
Location : 9 Kilbarrack Road, Raheny, Dublin 5 Eircode D05 VX00

Dear Sirs,

I refer to the Section 5 application made to Dublin City Council reference number 0236/24 on which a decision was issued on the 29th August 2024 (Decision Order P4333)

I wish to appeal the decision on the following grounds.

There seems to be a very fundamental misunderstanding about the legal position of this property and its position within the curtilage of my overall property.

My overall property is shown – marked in Red- on the planning Pack Map marked with the number (1). Part of the overall property shown on map numbered (1) includes a lane over which the owners of two other properties only (numbers (5) & (7) Kilbarrack road) have an easement.

The easement relating to number (5) refers to their access to their front garden in which they park their cars. The easement relating to number (7) refers to their right of passage over this piece of ground to access their house and garden, which is at the end of this “lane” – shown on Planning Pack Map numbered (2) and a separate map numbered (3)

The proposed entrance, its position and dimensions within my overall property at this location, are shown on the drawing numbered item (4) .

The Dublin City Council planning department reason for refusal is

“I recommend the applicant is advised that the creation of a gate of 3m in width and 1.8m in height to the rear garden of 9 Kilbarrack under Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) and considering Article 9(1) (a) (iii) of the Planning and Development Regulations 2001 (as amended) a gateway to the rear garden of 9 Kilbarrack Road that is sufficiently wide to accommodate a vehicular entering and existing the rear is not considered to constitute exempted development as the works are considered to endanger public

9 Kilbarrack Road,
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safety by reason of traffic hazard or obstruction of other road users.

The applicant is therefore advised that the exemption certification is refused."

Section 2 (1) of the Planning and Development Act states:

'Public road' has the same meaning as in the Roads Act, 1993 Roads Act, 1993 Public Road means a road over which a public right of way exists and the responsibility for the maintenance of which lies with the authority; "road" includes – a. Any street, lane, footpath, square, court, alley or passage, b. any bridge, viaduct, underpass, subway, tunnel, overpass, overbridge, flyover, carriageway (whether single or multiple), pavement or footway, c. any weighbridge or other facility for the weighing or inspection of vehicles, toll plaza or other facility for the collection of tolls, service area, emergency telephone, first aid post, culvert, arch, gulley, railing, fence, wall, barrier, guardrail, margin, kerb, lay-by, hard shoulder, island, pedestrian refuge, median, central reserve, channelliser, roundabout, gantry, pole, ramp, bollard, pipe, wire, cable, sign, signal or lighting forming part of the road

I wish to point out the following

(1) There is no public right of way over my property which comprises the lane leading to number 7 Kilbarrack Road and the responsibility for the maintenance of this ground does not lie with the authorities.

(2) The "lane" is my private property.

(3) I am legally advised that I am free to erect a gate at the entrance to what is my private property (the lane) should I so wish, to protect my privacy, provided that the owners of the two properties that have an easement over the laneway have a key to the gate, so it does not interfere with their easement.

(4) The grounds around 9 Kilbarrack Road, which includes the rear garden and the "lane" are both owned freehold by me and are simply part of the my overall property at this location.

(5) The property in question is not a public Road, it does not form part of a public road, nor has it ever been a public road and as such there are no "other road users" other than those properties with an easement. It is and will remain my private property.

(6) The ground is not a "Public Space" and members of the public are not entitled to enter the property without my permission

9 Kilbarrack Road,
Raheny,
Dublin 5

Eircode: D05 VX00

Date: 12/09/2024

Email: [REDACTED]

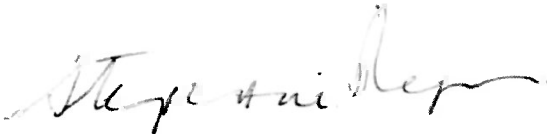
(7) As such the proposed works cannot be considered to endanger public safety nor constitute a traffic hazard nor an obstruction of other road users.

(8) Presently there is a wall dividing what is in fact, two pieces of my overall property at this location. The analogy is that of an internal wall within a house. I am advised that as the wall is not to the front of the property but to the side of the house, I am free to remove the wall as it is within the curtilage of my overall property and is neither a boundary wall nor a party wall to my property or any other third party property.

I am of the opinion that the reasons stated by the Planning and Property Development Department for the refusal are factually incorrect and do not reflect the legal facts on the ground.

I respectfully ask that An Bord Pleanála reviews the Decision of Dublin City Council Planning Department.

Yours sincerely



Stephanie Regan

Planning Pack Map

Map ①



OUTPUT SCALE: 1:1,000

CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured.
Output scale is not indicative of data capture scale.
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National Mapping Agency

CENTRE
COORDINATES:
ITM 723455,738619
PUBLISHED: ORDER NO.:
23/11/2022 50304258_1
MAP SERIES: MAP SHEETS:
1:1,000 5133-20

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Planning Pack Map

map 2



National Mapping Agency

CENTRE COORDINATES:
ITM 723465,738819
PUBLISHED: 23/11/2022
ORDER NO.: 60504258_1
MAP SERIES: 1:1,000
MAP SHEETS: 3133-20

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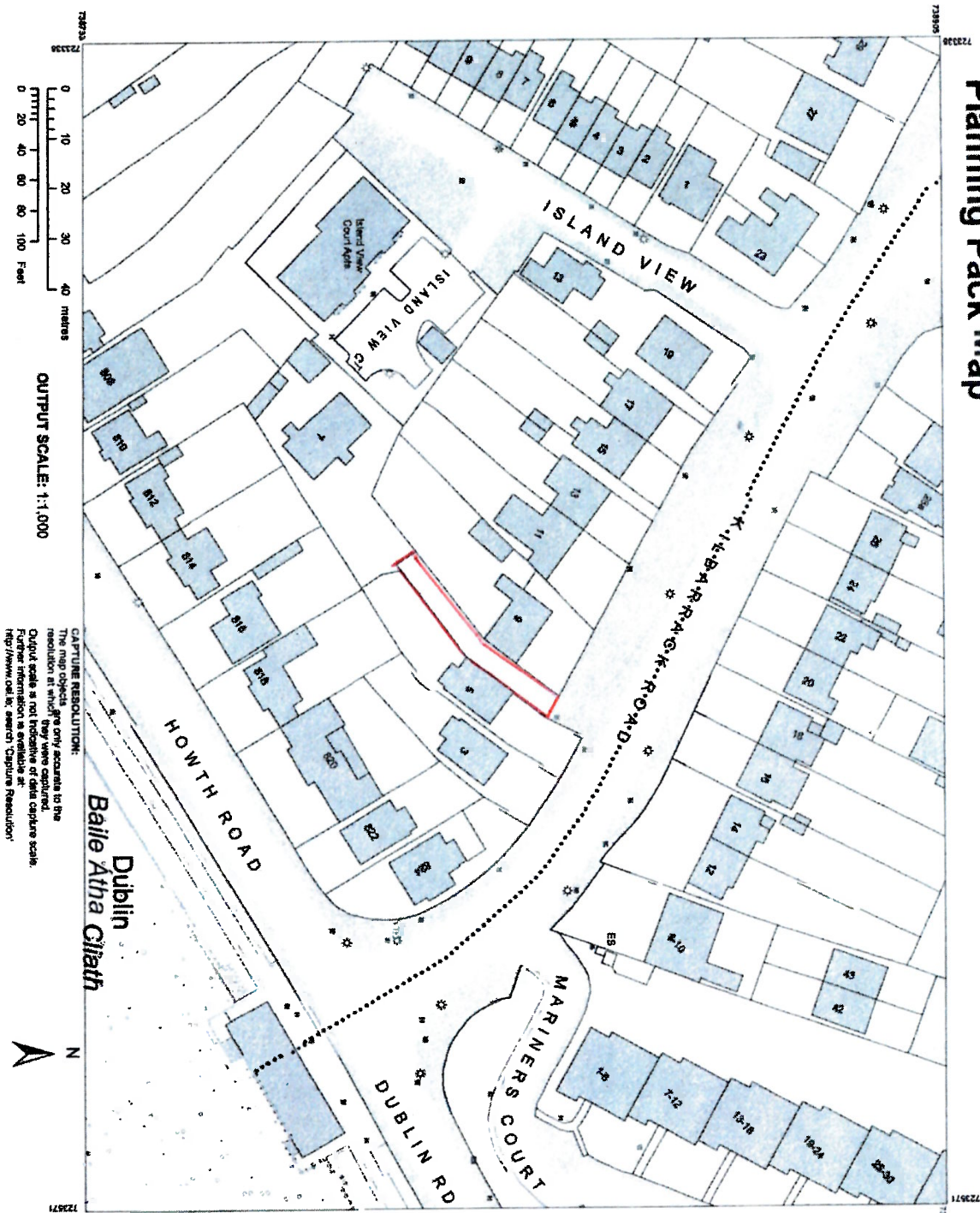
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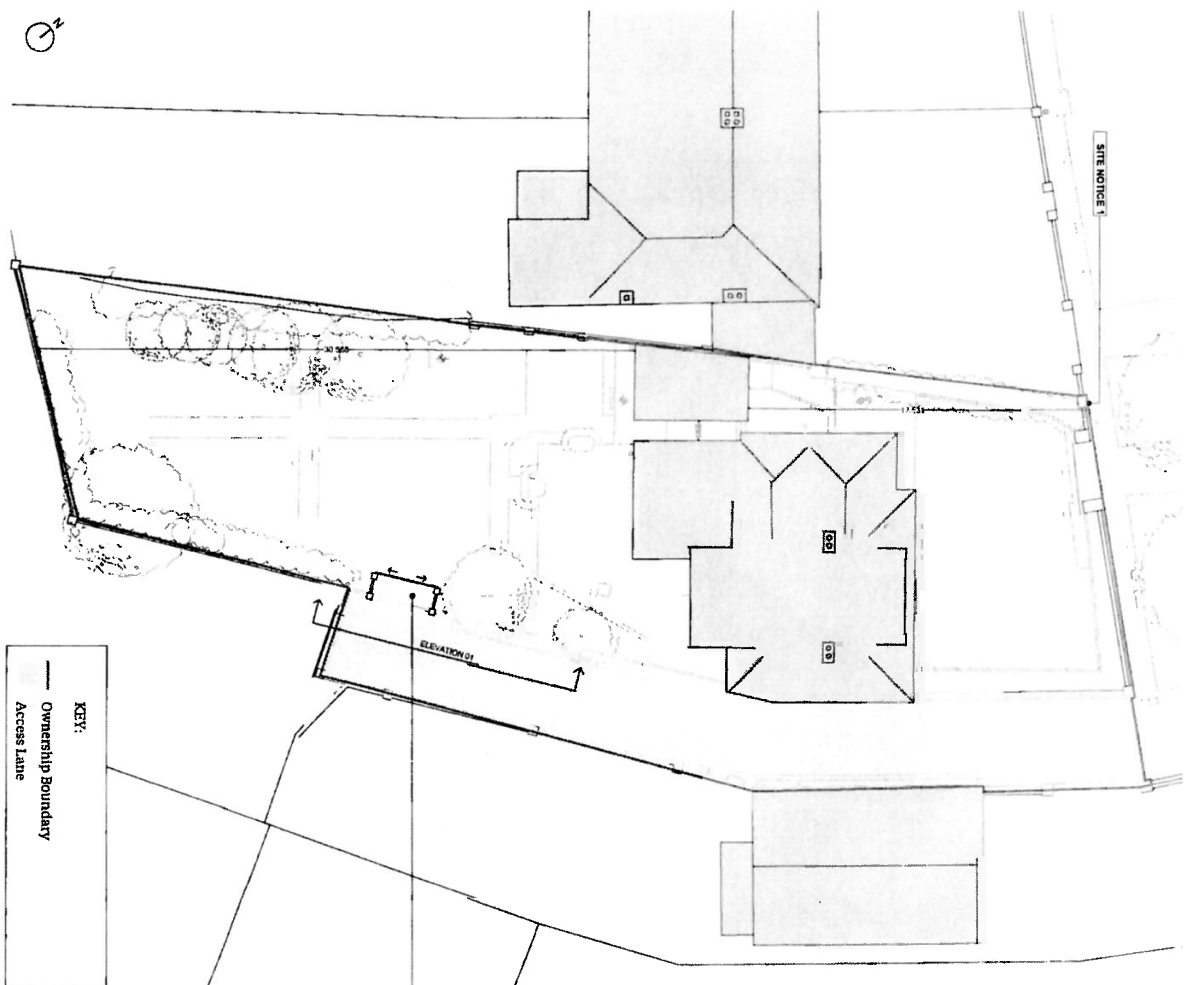
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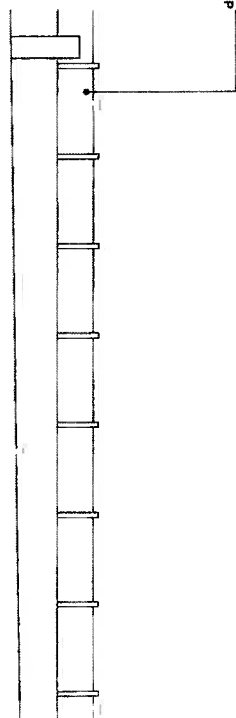
Map 3

Item (14)

SITE NOTICE 1

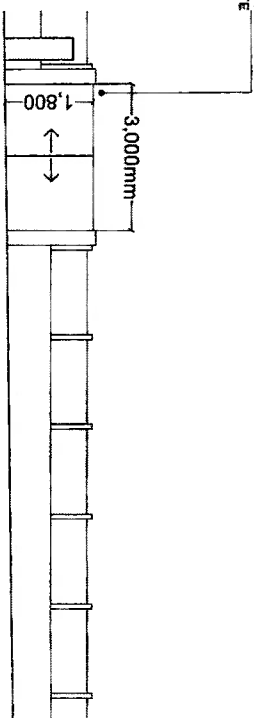


EXISTING BLOCKWORK WALL
WITH FENCE ON TOP



EXISTING ELEVATION 01
1:100 at A3

PROPOSED ELECTRONIC
SLIDING GATE



PROPOSED ELEVATION 01
1:100 at A3

PROPOSED SITE PLAN 1:250 at A3

Rev	Date	Prepared	By	CHK

Rev	Date	Description	By	CHK

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Project	9 MILBARRACK ROAD, DUBLIN, D08 VYX0
Sheet Number	310
Date	06/03/2024
Drawn By	NR
Checked By	CB
Scale	1:250, 1:100 @A3

Building Number	8002	Building Status	01
Title: EXEMPTED DEVELOPMENT NEAR ACCESS			
It is intended that the building be used for the purpose of the development as shown on the drawing. The building shall be used for the purpose of the development as shown on the drawing. The building shall be used for the purpose of the development as shown on the drawing.			



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

An Roinn Pleanála & Forbairt Maoine, Bloc 4, Urlár 3, Oifigi na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8.

Planning & Property Development Department, Block 4, Floor 3, Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

T: (01) 222 2288

E. planning@dublincity.ie

30-Aug-2024

Liam Scott
9, Kilbarrack Road
Raheny
Dublin 5
D05 VX00

Application Number	0236/24
Application Type	Section 5
Registration Date	08-Aug-2024
Decision Date	29-Aug-2024
Decision Order Number	P4333
Location	9, Kilbarrack Road, Raheny, Dublin 5, D05 VX00
Proposal	EXPP: It is proposed that a gated entrance (three metres in width) will be opened, joining the rear garden of Number 9 Kilbarrack Road and the lane, to facilitate access to the rear garden.
Applicant Details	Stephanie Regan

- If you have any queries regarding this Decision, please contact the email shown above

Note:

Any person issued with a declaration on development and exempted development, may, on payment of the prescribed fee, refer a declaration for review by An Bord Pleanála within four weeks of the date of the issuing of the declaration.

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Act 2000 (as amended), Dublin City Council has by order dated 29-Aug-2024 decided to issue a Declaration that the proposed development is NOT EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Act 2000 (as amended) for the following reason:

I recommend the applicant is advised that the creation of a gate of 3m in width and 1.8m in height to the rear garden of 9 Kilbarrack under Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) and considering Article 9(1) (a) (iii) of the Planning and Development Regulations 2001 (as amended) a gateway to the rear garden of 9 Kilbarrack

Ceannoifig, Oifigi na Cathrach, An Ché Adhmaid, Bhaile Átha Cliath 8, Éire
Head Office, Civic Offices, Wood Quay, Dublin 8, Ireland



Co mhair le Cathra ch
Bhaile Átha Cliath
Dublin City Council

An Roinn Pleanála & Forbairt Maoine, Bloc 4, Urlár 3, Oifigi na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8.

Planning & Property Development Department, Block 4, Floor 3, Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

T: (01) 222 2288

E. planning@dublincity.ie

30-Aug-2024

Road that is sufficiently wide to accommodate a vehicular entering and existing the rear is not considered to constitute exempted development as the works are considered to endanger public safety by reason of traffic hazard or obstruction of other road users.

The applicant is therefore advised that the exemption certification is refused.

Signed on behalf of Dublin City Council


For Administrative Officer

An Bord Pleanála

LOWER ABBEY ST DUBLIN 1,

Dublin 1

DUBLIN 1, IE

8728011

Cashier: Employee

Transaction 300325

Total €220.00

DEBIT CARD SALE €220.00

VISA 0106

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€220.00 | Method: EMV

Visa Debit XXXXXXXXXXXX0106

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MID: *****6467

AID: A0000000031010

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Stephanie Kegan and
Liam Scott

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12 SEP 2024	
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Time:	18.12
By:	hand