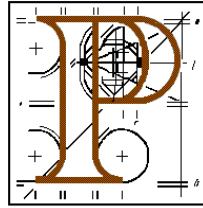


# An Bord Pleanála



## Inspector's Report

**PL 06F.245782**

**DEVELOPMENT:** New boundary wall and railings on top and ancillary works

**LOCATION:** 76 Strand Street, Skerries, Co. Dublin.

### PLANNING APPLICATION

**Planning Authority:** Fingal County Council.

**Planning Authority Reg. No:** F158/0207

**Applicant:** Siobhan and Gerard Boylan

**Application Type:** Permission

**Planning Authority Decision:** Refuse

### APPEAL

**Appellant:** Siobhan and Gerard Boylan

**Type of Appeal:** First Party – v- Refusal

**Observers:** None

**DATE OF SITE INSPECTION:** 27 January 2016

**INSPECTOR:** Patricia Calleary

## **1.0 SITE AND DEVELOPMENT DETAILS**

### **Site Location and Description**

- 1.1 The appeal site with a stated area of 0.0397 ha<sup>1</sup> is located in an urban setting at 76 Strand Street, Skerries in County Dublin. It consists of an open area located immediately in front of a 2 storey terraced dwellinghouse along the west side of the street. The area effectively forms part of a c.4m wide strip of ground which runs along the front boundary line of the subject site and adjoining properties, at a level c.410 mm below the adjoining footpath and street. It has a concrete finish and there are underground public drainage services traversing it.
- 1.2 There is an existing ramped pedestrian access and associated handrail located to the northern end of the site which provides for ease of access for wheelchair and other users from the lower level ground of all of the properties in the local vicinity to the higher footpath level at a location proximate to the RC church.
- 1.3 Strand Street is a long street running parallel to the strand. It converges with Church Street at the southern end. The street consists of simple single and two-storey buildings providing a mix of predominately residential development with some commercial/retail activity. There is a restaurant with a takeaway element located immediately adjacent (South) of the property and a bookshop is located immediately North of the subject site. The RC Church (1936) and Carnegie Library (1911) are situated in close proximity, north of the property. There are a number of mature terraced houses directly opposite the street at this location. Unlike the subject site, these lie at a similar topographical elevation to the street and footpath.
- 1.4 Skerries is one of Fingal's major coastal residential towns with a good mix of services and amenities serving tourism as a seaside destination and also the residential community. The town centre, in which Strand Street is located, is architecturally intact and attractive. It has been designated as an Architectural Conservation Area (ACA) within the current Fingal county development plan.

### **Description of Proposed Development**

- 1.7 Planning permission is sought to construct a new boundary wall with railings on top [of the wall] and ancillary works surrounding an area to the front of the dwellinghouse, in the space between the building line and the footpath. The proposal effectively seeks to create an enclosure of the area to the front of the property to form private amenity space.

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<sup>1</sup> The area is stated as 0.0397 ha on the planning application form and directly relates to the area proposed to be enclosed in front of the dwellinghouse. I note however that that the redline boundary has marked in a greater site area which, in addition to the stated area, also includes the entire property and its site.

- 1.8 Dwg No. RA-2015-08-01 indicates that the enclosure will be brought up to the same level as the existing footpath, noting a difference of level of c.410mm. The proposal also shows how the property will connect with the footpath through the intended enclosure. A stepped approach is shown leading to a gated ope in the railings at the footpath level. It is also proposed to connect the enclosed area to the existing ramped access at the Northern end via a 1.0m wide route and a gated ope to match the proposed railings.
- 1.9 The drawing presents an existing foul sewer manhole within the enclosed space and drainage pipework traversing the site. Similarly surface water and water services traverse the site. These services, together with an existing surface water gully, are proposed to remain in-situ.

## **2.0 PLANNING AUTHORITY DECISION**

- 2.1 The planning authority issued a notification of decision to refuse permission for the following reason:

*1: The proposal to erect a boundary wall with railings on top and enclose the area to the front of the property at this particular location where there are a series of steps would be inappropriate in scale and would adversely affect the Architectural Conservation Area for "Skerries" within which the site is located. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

## **3.0 PLANNING APPLICATION**

- 3.1 The application was submitted to the Planning Authority on 28 August 2015.

### **3.2 Planning Report**

The report of the Planning officer can be summarised as follows:

- The site is zoned 'TC', i.e. '*to protect and enhance the special physical and social character of the town and district centres and/or improve urban facilities*'.
- Reference is made to the previous planning history, reports from the conservation officer and Transportation Planning section.
- The report refers to relevant planning policy and objectives within ACAs including Objective AH17 and also accessibility objectives including UD18 and UD19.
- Recognises that the current proposal is lower than a previous one which was refused (F15B/0089). Nonetheless, the Planning Officer considers that the development would be inappropriate in scale, negatively impact the visual amenities of the area and would adversely affect the Architectural Conservation Area for Skerries.

- Concerns are also raised with regard to the accessibility of the public footpath and impeding access via the ramped wheelchair access at this location.
- **Refusal** is recommended for one stated reason summarised below.

(1) The proposal would be inappropriate in scale at the particular location where there are a series of steps and would negatively affect the ACA for Skerries.

### 3.3 Departmental Reports

A report from the Conservation Office and the Planning and Strategic Infrastructure department are on file and their comments are outlined below.

#### ***Conservation Office***

- The development is located within an ACA which places a level of protection on the exterior of buildings which positively contribute to the character of the area.
- Reference is made to a similar application which was refused permission.
- Considers the requirement for boundary treatment at a higher level than other properties along the street with stepped sides which would stand out as being different. Considers that this proposal would not be appropriate.

#### ***Planning and Strategic Infrastructural Department***

- The report points out that the area which is now proposed to be enclosed has been used over the years as part of the public realm.
- Raises issue therefore regarding right of way.
- Considers there is an issue regarding existing services under the footpath at this location.
- Recommends that issues regarding right of way and maintenance be resolved before any grant of permission is considered.

### 3.4 Prescribed Bodies

No submissions

### 3.5 Third Party Submissions

No third party submissions were received on the subject application.

## 4.0 PLANNING HISTORY

### 4.1 Appeal Site

- **F15B/0089** – Permission refused on 9 June 2015 for a boundary wall with railings on top and ancillary works surrounding an area to the front at 76 Strand Street, Skerries, Co. Dublin.
- **F11B-0122** – Permission was granted on 14 July 2011 to demolish existing two storey extension and to replace with larger two storey extension to the rear at 76 Strand Street, Skerries, Co. Dublin.

The applicants for both of the above planning applications were Siobhan and Gerard Boylan.

### 4.2 Neighbouring Vicinity

Permission was granted for the following which relate to development including garden boundary walls on the opposite (eastern) side of Strand Street.

- **F11A/0044** – Permission granted on 13 October 2011 to construct a 1 storey and replacement dwelling and plinth and railings. This permitted a new house at No.48 and new plinth and railings enclosing front garden space at No.s 48, 49 and 50 Strand Street.
- **F15A/0342** – Permission granted on 9 September 2015 for “The realignment and reconstruction of the front garden boundary wall and extension of the existing front garden over lands to the front. This property address in No. 47 Strand Street.
- **F15A/0300** - Permission was granted on 2 November 2015 for a new two storey extension to the rear of existing dwelling with attic conversion to bedroom and en-suite and new dormer extension to rear with roof terrace balcony to rear. This application also includes new 1m high garden walls to front with pedestrian entrance & pillars and associated site works.  
This property address in No. 52 Strand Street.

## 5.0 PLANNING POLICY

### 5.1 National Guidelines:

#### **Architectural Heritage protection - Guidelines for Planning Authorities**

- The Department of Arts, Heritage and the Gaeltacht issued guidelines under Section 28 of the Planning and Development Act 2000 (as amended), entitled 'Architectural Heritage protection.' Planning Authorities and by extension, An Bord Pleanála, must have regard to these guidelines. The guidelines require the extent of an

ACA to be identified in the development plan along with a description of the character of the ACA.

- Section 3.10.1 of the guidelines emphasise the importance of minimising visual impact of a proposed structure on its setting.
- Section 6.1.1 require development plans to include policy objectives to protect architectural heritage in its functional area. It advocates that steps are taken to ensure protection of architectural heritage through the development control process.
- Section 6.2.5 requires that Planning Authorities consider the potential impact of development on the character of the ACA when determining an application.

## 5.2 Fingal Development Plan 2011-2017

The current Development Plan is the *Fingal Development Plan 2011-2017*.

Within the plan, Skerries is recognised as one of Fingal's major coastal residential towns and is one which is attractive, compact and architecturally intact with an array of services and amenities. The historic core of the town has been designated as an ACA. Skerries has been categorised as a category "Moderate Sustainable Growth Towns" within the Fingal Settlement hierarchy. Under the development strategy for Fingal for this category of town, the need to preserve and enhance the distinct character and existing urban form is stated.

The following specific development objectives for Skerries are of relevance:

### **Objective – Skerries 1**

*Promote the development of Skerries as a vibrant local service, social and cultural centre and promote local tourism.*

### **Objective – Skerries 2**

*Prepare an Urban Centre Strategy for Skerries, reflecting the development strategy for the town, having regard to the needs of the local community and, where feasible and practical, incorporating the recommendations of the Malahide and Skerries Cycling Study prepared in March 2009.*

This objective is also supported within the section on urban centre strategies within which Objective UC10 states as follows:

### **Objective UC10**

*Produce Urban Centre Strategies for Malahide, Sutton, Baldoyle and Skerries, and other urban centres where considered necessary.*

The site is located in an Architectural Conservation Area (ACA) and has the following stated objectives:

### **Objective AH17**

*Ensure that any new development or alteration of a building within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the proposed design, including: scale, mass, height, proportions, density, layout, materials, plot ration and building lines.*

### **Objective AH18**

*Produce and review where necessary, detailed guidance for each ACA in the form of Statements of Character that identify specific special character of each area and give direction on work that would impact on this.*

The plan recognised that ACAs are important in the context of their contribution to the streetscape or character of an area.

The site has a zoning objective 'TC', where development is required to:

*Protect and enhance the special physical and social character of the town and district and provide and/or improve urban facilities.*

The following objectives in respect of accessibility are also relevant:

### **Objective UC18**

*Provide universal access in the development of new urban areas and the redevelopment of existing urban areas.*

### **Objective UD19**

*Require all development to demonstrate high levels of accessibility and permeability both to and within a site.*

**Objective WS02** which deals with urban drainage infrastructure, is relevant.

It aims to:

*Ensure that all developments comply with the requirements of the Council and with the principles of sustainable development. Best management practices, as identified by the Council, are to be implemented.*

### 5.3 **Statement of Character (October 2008)**

Within the Skerries Architectural Conservation Area Statement of Character, the subject property and adjoining bookshop retail unit (No. 76-77) are described in architectural terms as a house with a small shopfront, being an example of the understated simplicity of the traditional street architecture in the ACA.

The statement recognises that the west side of Strand Street has a remarkable wide footpath.

## 6.0 **GROUNDS OF APPEAL**

### 6.1 **First Party Appeal**

The grounds of appeal submitted by **Rankin Associates** can be summarised as follows:

#### ***Policy***

- The proposed development is zoned 'TC'.
- The site is located within an ACA.

#### ***Planning History***

- The appeal states the development description of the previous application which was refused on the subject site.

#### ***Pre-planning Consultation***

- Cognisance was taken of the previous refusal. The new design presented was discussed with the Planning Officer and Conservation Officer as was a revised application for a reduced plinth wall and railings height.
- The applicant is a freehold owner of the lands and the proposal is to enclose the space in order to afford them protection from anti-social behaviour was discussed at the outset.
- The design of the railings and low plinth are similar to a permitted development on Strand Street, located immediately opposite the applicant's property.
- The development is not inconsistent with or incongruous with any aspect of the surrounding context and is fully in conformance with



other similar permitted railings at 48,49,50 and 52 Strand road, located opposite the subject site.

### ***Agents Comments on the Planning Authority's Decision***

- The reason given for refusal cannot be sustained.
- The development would accord with the established pattern and character of the surrounding residential development.
- The proposal is supported by the residents along the terrace of houses.
- A letter is attached from the owner of No.70 Strand Street who states they have made a planning application for a similar enclosure.
- The footpath at this Western side of the street is double the width of that on the Eastern side where developments referred to above were granted permission.
- The proposal would not cause injury but would instead enhance the residential amenities of the property and neighbouring properties.

### ***Agents Summary***

- It is submitted that the application is reasonable and without injurious effect to the local or wider environment. It would protect residential amenities of the subject property and neighbouring properties. It would be compatible with the permission granted for similar developments on Strand Street which is in the immediate vicinity of the subject site.

### ***Other matters referred to by agent***

- In addition to the above, an A4 size map of the street at this location is enclosed. The respective areas to the front of those properties are distinguished in a hatched legend. The hatched areas are shown in front of a number of the properties, i.e. No. 68,69,70,73,73A,74 and 76 (subject Boylan appeal site).
- A number of letters of support for the application are also included from residents from No. 68, 69, 70, 73, 74 and 77 Strand Street. The residents have expressed concern about litter and disturbance in the area as well as the poor state of the paths and external surface. Some residents have stated that they are also considering submitting a planning application for a similar proposal.
- The applicant's agent also enclosed a copy of a map and an extract from what appears to be a property title registered in the registry of deeds. It shows an area outlined to the front of the building. The extract map is dated 4/02/2010 and the written text accompanying the map and dated 25 February 2011 indicates that this area was intended to be conveyed to Gerard Boylan and Siobhan Boylan as the purchasers of the property.

## 6.2 Planning Authority Response to Grounds of Appeal

Fingal County Council state that the advice of the conservation officer is unchanged and that it is a matter of the Board to evaluate the townscape impact of the proposal.

## 6.3 Observers

None

## 6.4 Other Correspondence

A letter of support for the subject application was received from Brendan Ryan TD (public representative).

## 7.0 ASSESSMENT

7.1 I have examined the documents on file, inspected the site and environs and considered relevant planning policy. The following assessment covers the points made in the appeal submission and also encapsulates my *de novo* consideration of the application. I consider that the key issues in this appeal case are as follows:

1. Impact on ACA
2. Accessibility
3. Public Services
4. Other Matters

## 7.2 Impact on ACA

The site is located within an area designated in the Fingal Development Plan as an Architectural Conservation Area (ACA) where the key objective is to ensure that any new or alteration to a building in an ACA

*“Positively enhances the character of the area and is appropriate in terms of the proposed design, including: scale, mass, height, proportions, density, layout, materials, plot ratio and building lines”.*

The proposal involves the addition of a singular wall and railing private enclosure between the front building line and the public footpath. Due to the lower ground level of the property, it would require a stepped wall to meet the footpath level, which is c.410 mm above the ground level. 900mm railings are proposed on the 3 sides of the enclosure.

I concur with the Planning Authority's conservation officer who expressed concerns regarding the visual prominence of the development due to the elevated nature proposed. I agree the development would be visually prominent and it would detract from the character of the area in an important ACA setting. This is particularly so because of the piecemeal nature of a single enclosure on the street. I note that the applicant/appellant makes references to other properties which have been granted planning permission for enclosures and having researched these and outlined the description in the planning history section of this report, I can conclude that these were permitted in an entirely different context by virtue of the placement on an area where ground levels outside of those properties are the same or similar level to the adjoining public footpaths. Examples of these can be seen on the opposite side of the street and they are constructed at street and footpath level without any negative impact on the visual amenity of the area in the ACA.

**[Note:** In relation to the letter attached from the owner of No.70 Strand Street who states they have made a planning application for a similar enclosure, a search of the Fingal planning register located one recent application for *"Single storey extension to rear of existing bungalow and reconfigured windows to front elevation at 70 Strand Street"*. A decision to grant permission was made on 26 January 2016. No proposal for an enclosed space has been indicated on the planning drawings or the public notice submitted with the development. No other application for an enclosure at this subject property is recorded on the planning register].

I can understand the applicant's good intentions to enclose the space which they point out that they own but I consider that, due to the physical constraints at the particular location, most especially the change in level, and considering the resultant visual impact to the area, that the addition of a single enclosure at this location would be inappropriate when considering the planning merits of the proposal. I note that the current development plan has 2 stated objectives to prepare an urban strategy for Skerries (Objective – Skerries 2 and Objective UC10). Should a masterplan for the wider area be prepared to include a high quality architectural response to the street, footpath, access and re-location of public services, I may have a different view. However, in assessing the current application in its current context, I consider that a singular enclosure along the streetscape at this location would detract from the visual character of the street in an unplanned piecemeal manner and would adversely affect the Architectural Conservation Area for Skerries. I therefore do not consider it would be appropriate to permit the proposed development as it would be in conflict with Objective AH17 and, accordingly, it would be contrary to proper planning and sustainable development of the area.

### 7.3 **Accessibility – NEW ISSUE**

There is an existing ramped accessible access located immediately north of the subject site, at property No.77. The ramped access connects the higher level footpath to the lower level ground fronting the mix of terraced properties and it complements the stepped approach providing access for

all. The Planning Officer raised concerns in respect of the impact which the proposal would have on the accessibility of the public footpath and the ramped wheelchair access. However, this issue did not form a reason for refusal.

Objective UD18 endorses the requirement for universal access in the development or redevelopment of existing urban areas.

Based on a review of the drawings, I note that the development proposal presents a direct connection from the enclosure to the existing ramped access. However, it is evident on the ground that the ramped access currently serves the wider public user group at this location, which itself is close to the Church and library facilities at the northern end. The proposal would therefore impede public access by removing the connecting route from the lower level to the higher footpath level at this important location adjacent to the RC Church and public library. I note there is also a ramped access further south along Strand Street but I am of the view that the removal of public access from the particular location at the northern end would be contrary to the principles of accessibility and inclusive approach for all regardless of age, size or ability.

**Note:** Having regard to the substantive reason for refusal set out below which accords with the decision of the Planning Authority, the Board may not wish to pursue the matter of accessibility in this instance.

#### 7.4 **Public Services – NEW ISSUE**

The drawings presented, together with an inspection of the site, reveal the presence of underground public services traversing the subject site. These include surface water and foul water pipework together with a foul sewer manhole cover and a surface water road gully. It is proposed that these public services would remain and traverse through the new enclosure. This response would restrict access to the Local Authority for any repairs, maintenance or works to the public services as it would no longer be an open assessable space. I concur fully with the concerns raised by the Planning & Strategic Infrastructure Department of Fingal County Council regarding access for maintenance vehicles, pointing out that the proposed boundary treatment could not accommodate such access. In my opinion, the proposal would result in a conflict between the provision of an enclosure to serve / improve private amenity space and the management and maintenance of underground public piped infrastructure serving the wider community. I consider that while these public services remain in-situ in their current location, the proposed development would not be compatible with existing drainage infrastructure or best management practice as is set out under Objective WS02 of the Fingal Development Plan.

**Note:** Having regard to the substantive reason for refusal set out below which accords with the decision of the Planning Authority, the Board may not wish to pursue the matter of public services in this instance.

## 7.5 Other Matters

### Legal Interest

I note the Planning and Strategic Infrastructure Department consider that the area has been used for a large number of years as part of the public realm. However, I also note the applicant/appellant has confirmed their legal interest in the plot of ground and have submitted a copy of an extract from what appears to be a property title registered in the registry of deeds. In any case, Section 34(13) of the Planning and Development Act 2000 provides that *"A person shall not be entitled solely by reason of a permission under this section to carry out any development."* Therefore, I do not intend to consider this matter of legal interest as relevant in assessing the planning merits of the appeal.

### Appropriate Assessment

The site is located c.850m from the closest point of the SPA designations afforded to the 3 islands located off the East coast of Skerries (Site Code: 004122). It is located c.3km from the Rockabill to Dalkey Island SAC (site code 003000). Having regard to the location of the subject site in an established urban setting and to the nature and scale of the proposed development and the proximity to the nearest European sites, I consider that no **Appropriate Assessment** issues arise in this case. It is not considered that the proposed development either individually or in combination with other plans or projects, would be likely to have a significant effect on a European Site.

## 8.0 RECOMMENDATION

8.1 Arising from my assessment above, I recommend that permission be REFUSED for the proposed development based on the reasons and considerations set out below:

### REASONS AND CONSIDERATIONS

1. The site of the proposed development is located in the historic core of Skerries which has been designated as an Architectural Conservation Area under the current Fingal Development Plan 2011-2017 with a stated objective (AH17) to "*Ensure that any new development or alteration of a building within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the proposed design, including: scale, mass, height, proportions, density, layout, materials, plot ratio and building lines*". It is considered that the singular enclosure proposed along the streetscape at this location, where there are a series of steps, would detract from the visual character of the street in an unplanned manner and would adversely affect the Architectural Conservation Area for Skerries. Accordingly it is considered that the proposed development would be in conflict with Objective AH17 and would be contrary to proper planning and sustainable development of the area.

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**Patricia Calleary**  
**Inspectorate**

09/02/2016