



An
Bord
Pleanála

Inspector's Report 06F.247783

Development	Retention of (i) lean to extension to stable involving creation of roofed enclosure for two horses, (ii) tack room, and (iii) timber railing and landscaping.
Location	Rear of 14/16 Thormanby Lodge, Thormanby Road, Howth, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F16A/0438.
Applicant(s)	Una Mallarkey.
Type of Application	Permission for retention.
Planning Authority Decision	Split decision.
Type of Appeal	Third Party.
Appellant(s)	Christian Gulmann & Nicole O'Kelly Gulmann.
Observer(s)	None.
Date of Site Inspection	26 th February 2017.
Inspector	Deirdre MacGabhann.

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1.0 Site Location and Description

- 1.1. The appeal site lies on Howth Head, Co. Dublin. It is situated to the north of Howth Summit and to the east of Thormanby, a small residential development to the east of Thormanby Road. The appeal site comprises a large agricultural field. The field is sub-divided, by mix of hedgerow, timber and electric fencing, into three fields, one to the north and two to the south (one to the east of the landholding and one to the west). In the field east of nos. 15-17 Thormanby Lodge, is a small stable block, c.34m to the east of the boundary with the properties. To its rear, and to its northern side, is a roofed and gated extension, with the gates opening to the north and south. To the north of the stables there were a small number of large bales stored on site and, possibly used bedding material (see photographs). At the time of site inspection, the northern and south western field were being grazed by horses.
- 1.2. Access to the appeal site is from Thormanby Road to the south of Thormanby Lodge. To the east the site, visually separated from it rising topography, is cliff walk, a public footpath around Howth Head. To the south is forestry.

2.0 Proposed Development

- 2.1. The proposed development comprises retention of the following:
- i. A lean to extension to the rear and side of the existing stable. Comprising a roofed enclosure for two horses (26.5sqm). The roofed area is sub-divided to provide accommodation for two no. horses. Each side of the extension is open but has a farm gate to provide access to each side of the enclosure.
 - ii. A small tack room to the side of the existing stables and to the front of the lean to extension (5sqm),
 - iii. A part paved and part gravel enclosure, surrounded by timber railing, to the side and front of the stable and lean to extension.
 - iv. Landscaping (existing hedging to the rear of the development to be reinforced and protected).
- 2.2. The applicant states that she has kept horses on the land, with the consent of the owner, for c.20 years. The existing building on the site has been on the land for over

35 years and was previously used for cattle. The additional stabling is required to keep the horses in winter months (adverse weather/wet land causing horses to lose condition).

3.0 Planning Authority Decision

Decision

- 3.1. On the 30th November 2016 the planning authority decided
- a. Grant retention permission for the lean to extension and tack room, subject to 2 no. standard conditions (development to be retained in accordance with plans submitted and development charge), and
 - b. Refuse retention permission for the timber fence and paving slabs on the grounds that that development, located in the high amenity zoned lands and Howth Special Amenity Area, would be visually incongruous and have an adverse impact on the natural and visual amenity of the area and would represent inappropriate piecemeal development which would be injurious to the visual amenity of the sensitive landscape of the Howth SAAO.

Planning Authority Reports

- 3.2. The planning officer's report (30th November 2016) refers to the HA zoning of the appeal site (high amenity), its location within the Howth SAAO and observations made on the application. The report considers:
- Zoning - The development is acceptable in principle on the HA zoned lands.
 - Integration and impact on visual amenity -
 - The site of the proposed development is somewhat isolated within the agricultural field and while the extension is relatively modest in scale it is constructed mainly of green corrugated sheeting and as a result its appearance is temporary in nature. The extension is not of a scale that gives rise to a significant adverse impact on the visual amenity of the area. Retention permission should, therefore, be granted. Given the temporary nature of the structure and its siting within HA lands and within the SAAO, a temporary permission for three years will be granted, after which the applicant will be requested to remove the

structure (I note that the permission granted does not refer to a temporary permission).

- The SAAO Design Guidelines state that concrete posts, wire fencing and other forms of wire fencing are acceptable where there is a need for stock proof fencing provided that the fence is inside a hedge or wall which is in accordance with the guidelines. It is considered that the fence and associated paving slabs are visually incongruous and retention permission for this element of the proposed development should be refused.
- It notes that a timber post and rail fence has been erected to the east. Permission does not appear to have been granted for this and it is considered to be visually incongruous and inappropriate at this location.
- Residential amenity - the stables are located in excess of 30m from the nearest residential properties to the west. The site has an established use for keeping of horses. As such, the development does not give rise to any adverse impacts on adjoining residential properties.

3.3. Having regard to the above, the report recommends granting retention permission for the extension to the lean to extension and tack room and refusing retention permission for the timber fence and paving slabs.

Other Technical Reports

3.4. There are no other technical reports on file.

Prescribed Bodies

3.5. There are no submissions on file from prescribed bodies.

Third Party Observations

3.6. Three objections were made in respect of the proposed development (Ed Lally, Michael O’Riordan, Christian Gulman and Nicole O’Kelly Gulmann). Issues raised are raised in the appeal and can be summarised under the following headings:

- Development conflicts with policies of the Howth SAAO.

- Impact on residential amenity.
- Risk of future development on site.
- Omission of timber fencing from application for development.
- Application requires EIS.
- Development would be in contravention of SI 94/1997 EU (Natural Habitats) Regulations 1997.
- Blocking of public right of way.

4.0 Planning History

- 4.1. Under PA ref. F15A/0460 an application for the erection of 3 no. wooden stables to shelter horses on the appeal site was withdrawn. Under PA ref. ENF15/181B warning letters and an Enforcement Notice was served in relation to the erection of an additional structure on the appeal site.

5.0 Policy Context

Development Plan

- 5.1. The appeal site falls within the administrative area of the Fingal County Development Plan 2017-2023. The Plan became effective on the 16th March 2017.
- 5.2. The appeal site lies within a Coastal Landscape Character Type and on the prominent headland of Howth, which is also the subject of a Special Amenity Area Order (1999). The site is zoned HA '*to protect and enhance high amenity areas*'. Policy objective NH51, in respect high amenity areas, seeks to '*protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place*' (policy objective NH51). Views from the footpath to the east of the site are identified as protected views and are afforded protection under policy NH40 of the Plan.
- 5.3. The Coastal Landscape Character Type is considered to be highly sensitive to development (Table LC01) and the plan sets out principles to guide development in such areas and landscape character assessment policy objectives NH33-NH39 (see

attachments). Essentially the objectives seek to preserve the uniqueness of landscape character type and ensure that development reflects and reinforces this character.

- 5.4. Special Amenity Areas, including the Howth Special Amenity Area, are afforded protection under policy objectives NH44 in accordance with the relevant Order.

Howth SAAO, 1999

- 5.5. The appeal site comprises mostly 'land used for agriculture or forestry', with the south eastern part of the site as 'other areas within the SAAO' (Map A or the Order). Further, the following features are identified for protection on and in the vicinity of the site (Map B of the Order):

- Footpaths to the east of the site,
- Heathland and maritime grassland, comprising the south eastern part of the appeal site, and land to the east of the appeal site.

- 5.6. Schedule 1 of the Order sets out a number of objectives for the enhancement of the Special Amenity Area. Objective 1.1 includes to manage the area in order to conserve its natural and cultural assets and protect the amenity of local residents.

- 5.7. Schedule 2 of the Order sets out objectives for the preservation of the character or special features of the area, these include, to preserve views from public footpaths and roads (Objective 2.1).

- 5.8. Schedule 3: Part 3 of the Order sets out objectives in respect of land used for agriculture or forestry, as defined in Map A. These include '*to preserve the character of the landscape and to conserve nature by promoting habitat diversity and environmentally friendly farming practices and where applicable, to sustain the economic viability of working farms without compromising either landscape quality or habitat diversity*' (objectives 3.5, 3.6). Policy 3.5.1 states that '*development consisting of the construction of farm buildings... which is not exempted development in the special amenity area, will be evaluated in accordance with the stated objectives of the Order*'.

Natural Heritage Designations

5.9. Natura 2000 sites are afforded protection under policy objective BD12 of the Fingal County Development Plan. Natura 2000 sites which lie in the vicinity of the appeal site are shown in the attachments and include:

- Howth Head SAC/pNHA (site code 000202) – immediately adjoins the site to the east.
- Howth Head Coast SPA (site code 004113) – lies to the east of the site.
- Rockabill to Dalkey Island SAC (site code 003000) – lies to the east of the site.

6.0 The Appeal

Grounds of Appeal

6.1. There is one third party appeal in respect of the planning authority's split decision:

- Site history – The proposed development is an extension to an existing structure that was built c.28 years ago without any apparent permission. Lands cleared, gorse removed, trees felled and soil removed, grassy lane from Thormanby Road widened (September 2014). Planning application sought for erection of stables to the rear of 14 to 18 Thormanby Lodge and subsequently withdrawn (October 2015). Applicant subsequently advised property owners in the area that they were erecting a temporary structure which, therefore, does not require planning permission (December 2015). Current unauthorised development commenced in (December 2015) and was completed in 2016 (January for structure, erection of posts in June and cladding and gates in November). There was no intention to erect a temporary structure. An unauthorised development has been erected without permission. A warning letter (5th January 2016) and an enforcement order (19th August 2016) were ignored by the applicant. The enforcement order should be acted upon.
- Conflict with policies of the SAAO - Site is in SAAO area, and as such should not be built on. Development conflicts with policies of the SAAO, would

interfere with a view or prospect, involves an unauthorised structure or use, would obstruct a public right of way and requires an EIS (4.2.2, 4.2.7, 4.2.9 and 2.3.3). Application fails to refer to 28 x 8ft timber posts installed across the field. Fence contravenes boundaries regulations in the SAAO (should be at the perimeter of fields) and creates an eyesore. Landscaping in an SAAO is in contravention of the order which is to leave the area, including gorse and the natural vegetation completely untouched.

- Risk of future development - If permission is granted, it would lead to further development in coming years (e.g. housing).
- Surface water – Means to dispose of surface water is not specified. In winter months, water runoff from lands runs into gardens 14-17. This will be aggravated by the proposed development.
- Wastewater - means to manage/treat wastewater is not specified.
- EIS - Application requires an EIS.
- Policy context - development in a strategic development zone (the Howth SAA).
- Appropriate assessment - development would be in contravention of SI 94/1997 EU (Natural Habitats) Regulations 1997.
- Impact on amenity (vehicular access) - the recent driving of vehicles through the field has impacted on amenity, damaged gorse/natural fauna, tracks through field, causing disturbance and noise to rear of properties and overlooking houses.
- Public right of way – the applicant has blocked a public right of way (.from Thormanby Road to the coast)
- Implementation of PA decision - application for retention has been successful with applicant required to remove only fencing and concrete paving. There is no indication that this is being adhered to. Right of way is still blocked.

Applicant Response

6.2. The applicant responds to the appeal as follows:

- Site history – The previous application (PA ref. F15A/0460) was withdrawn after concerns were expressed by residents. The subject application seeks permission for an extension to an existing stable in an agricultural field and must, therefore, be deemed acceptable. The existing stable has been in place for c.30 years. The extension is the minimum size required to give cover to the horses.
- Compliance with policies of the SAAO – land is zoned HA, to protect and enhance high amenity. One of the very few uses allowable is agriculture. While there are many open fields on the peninsula, 95% are used for keeping horses, many with stables. In many ways this is the only sustainable use that these grazing areas can be put to. The development is modest in scale, is consistent with the land use zoning of the site.
- Landscaping/timber fence – the purpose of the wooden posts is to support electric fencing to keep horses of the lowest corner of the field in winter (very wet/gets cut up with horses on it).
- Future development – concerns of the appellant regarding the future use of the site is not relevant. The development is not a precedent for further development in the fields.
- Waste water management/disposal of surface water – good stable management means that any urine is fully absorbed by shavings when the animals are in. Additionally, good rubber matting ensures that zero urine seeps into the ground. Manure is removed from the field subsequently as part of the overall management of the facility.
- Need for EIS – there is no requirement under legislation to prepare an EIS for the proposed development (below threshold, no significant impacts on the environment).
- Application relates to a development in a strategic development zone – The subject is not in a SDZ.
- Contravention of SI 94/1997 EU (Natural Habitats) Regulations – both the applicant's agent and the planning authority examined the site in terms of the need for appropriate assessment and deemed that it was not required.

- Residential amenity – stables are in excess of 30m from the nearest residential property to the west. The site has an established use. The development does not give rise to any adverse impacts on adjoining properties.
- Vehicular access – the applicant has to make a number of trips to the stables every month, with feedstuffs and bedding and to remove manure. Trips never take place at night. Only once when an animal was sick did this occur (visited by vet, light source used to examine animal).
- Implementation of PA decision - Having regard to the decision of the planning authority, the applicant has removed the paving and fencing to the east and south of the proposed development. The applicant is solely concerned regarding the welfare of the horses.
- Right of way – While there is no right of way through the subject site, a very small number of people traverse the lands, some to get to Cliff Walks (the official right of way). The applicant has no substantial objection to persons walking through the fields, providing they do not interfere with the horses. Cliff Walk, right of way, lies c.80m to the south of the subject site and will not be compromised or affected. Protected views and prospects will not be affected by the proposed development.

Planning Authority Response

- 6.3. Having reviewed the grounds of appeal, the planning authority remain of the view that (a) the lean to extension and tack room do not have a significant adverse impact on the visual amenity of the surrounding area, and (b) that the timber fence erected to the south and east of the stable is visually incongruous and its retention should not be permitted.

Observations

- 6.4. There are no observations on file.

7.0 Assessment

7.1. Having regard to the information on file, policies of the Fingal County Development Plan 2017 - 2023 and my inspection of the appeal site, it is my view that the key issues for this appeal relate to the following matters:

- Consistency with policies of the current County Development Plan and Howth SAAO and risk of future development.
- Disposal of surface water and wastewater.
- Need for EIS/AA.
- Impact on residential amenity.
- Impact on right of way.
- Implementation of planning authority's decision.
- Other matters (extent of permission, omission of timber fence from application).

7.2. Parties to the appeal also refer to the history of development on the appeal site. The applicant has acknowledged, in the application for retention, that the works carried required planning permission. An application for retention has therefore been lodged and the merits of it are assessed here.

Consistency of with policies of the current County Development Plan and Howth SAAO

7.3. The appeal site is zoned 'HA', high amenity. Policies of the Fingal County Development Plan 2011 to 2017 protect the designated areas from inappropriate development and reinforce their character, distinctiveness and sense of place (policy objective NH51). The appeal site lies in a Coastal Landscape Character Type. Again policies of the plan seek to preserve the uniqueness of this sensitive landscape character and to ensure that development reflects and reinforces its character. Objectives in respect of land used for agriculture in the Howth SAAO again seek to preserve the character of the landscape and to conserve nature by promoting habitat diversity, environmentally friendly farming practices and the economic viability of farms, without compromising landscape quality.

- 7.4. The appeal site comprises an open agricultural field which for the past 20 years appears to have been grazed by horses. The existing stables on it appear to have been present for over 30 years, predating the Howth SAAO (1999). The appeal site is not visible from the public footpath (Cliff path) that runs to the east of the site but is visible from more elevated land to the north of the car park at the summit. However, the existing stable and lean-to are not visible from this vantage point.
- 7.5. The proposed lean-to extension to the stables and tack room increases the size of the stable block from 17.0sqm to 31.5sqm. However, most of this development takes place to the rear of the existing stable, between it and the hedgerow. In contrast, the fenced area (partly paved and partly finished in gravel), extends into the agricultural field to the south and east of the building and increases the overall scale of the development to total area of 112sqm.
- 7.6. As stated policies of the County Development Plan and Howth SAAO seek to protect landscape character which in this instance is the generally open and undeveloped nature of the appeal site. The proposed development, collectively, would comprise a significant increase in the built development on the appeal site and would be at odds with this policy objective. However, I am mindful that the applicant is keen to house her horses in winter, in the interest of animal welfare. In this context, and recognising the established use of the appeal site and policies of the Howth SAAO which also seek to support farming practices, the location of the proposed lean-to and tack room primarily to the rear of the existing stable block, I would therefore concur with the approach taken by the planning authority and limit the extent of development on the site. I would recommend, therefore, that the Board grant retention permission for the lean-to extension to the existing stables and tack room and refuse permission for the more prominent external fenced area.
- 7.7. Parties refer to the possible future development of the site, if planning permission is granted. However, any such development would be subject to planning approval and would be determined on its merits at the time, in the context of prevailing planning policies.

Disposal of Surface Water and Wastewater

- 7.8. The proposed development comprises additional housing for horses. My understanding of current equine practice is to house horses on wood shavings (or

similar) placed over heavy equine matting. As stated by the applicant, liquid arising from urine and faeces is readily absorbed by this material, giving rise to little wastewater runoff, with the wood shavings being disposed of off-site. If the Board are minded to grant permission for the development, this matter could be further controlled by way of condition.

- 7.9. I note that third parties raised concerns regarding the discharge of surface water from the site onto residential properties downhill of it (Thormanby Lodge). It is possible that the proposed development may exacerbate this situation e.g. with the discharge of rainwater from roof of the extension to ground. If the Board are minded to grant permission for the development, this matter could be dealt with by condition.

Need for EIS/AA

- 7.10. The proposed development is very modest in scale and will not give rise to significant environmental effects to trigger either mandatory or discretionary environmental impact assessment.
- 7.11. The appeal site borders the Howth Head SAC/pNHA and lies to the west of the Howth Head Coast SPA and Rockabill to Dalkey Island SAC. Notwithstanding this, as stated, the proposed development is very modest in scale and will not give rise to any significant pollution to soil, water or air (in particular with the removal of used bedding from site). No appropriate assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Impact on Residential Amenity

- 7.12. The appeal site lies immediately north of the residential properties at Thormanby Lodge. The existing stables lie approximately 34m from the boundary with the nearest property. As viewed from these properties, the lean to extension lies to the rear of the existing stable, between the stable and the hedge and the proposed external area to the front of it (south). Neither aspect extends towards the residential properties.
- 7.13. As stated above, I consider that the proposed development as a whole (lean-to, tack room and external area) represents a significant extension to the buildings on the appeal site and would be inappropriate. However, I consider that the proposed lean-

to and tack room, largely to the rear of the existing stables, could be accommodated. Whilst I accept that the proposed development, when viewed from properties along Thormanby Lodge, would be wider than the existing building, it is an established use and comprises a modest extension to it between the existing stable and the hedgerow. I do not consider, therefore, that the proposed lean-to that it would detract from the amenity of the residential properties.

- 7.14. With regard to vehicular access to the appeal site, I would accept that as an agricultural use, the applicant would have to have some access to the lands e.g. to import haylage and to export used shavings. These uses would be typical of any agricultural land use and are not unreasonable. Further, it is not in the interest of the landowner to damage lands (e.g. rutting) as this would reduce the area and/or quality of grazing land.

Impact on Right of Way

- 7.15. I note the comments on file regarding the impacts on a right of way. There are no protected footpaths indicated in the County Development Plan or Howth SAAO from Thormanby Road, through the appeal site, to the coast. As such, the matter is a legal one and falls outside the scope of this appeal.

Implementation of Planning Authority's Decision.

- 7.16. Issues regarding the implementation of the planning authority, or the Board's, decision in respect of the proposed development, are matters for the planning authority under their enforcement powers.

Other Matters

- 7.17. The planning officer recommends that a temporary permission is granted for the proposed development. However, having regard to the longstanding use of the appeal site for grazing horses, the existing use of the building on the site as a stable block, the modest nature of the proposed lean-to extension and tack room and its limited visual impact, I do not consider that it is necessary to place a time limit on the permission.
- 7.18. Parties to the appeal refer to the timber fencing on the appeal site which does not form part of the application for development. I am mindful that in order to manage land horses do need to be rotated from one parcel to another to rest areas and allow

grass to regenerate or wet land to be rested. Policy 3.4.2 of the Howth SAAO sets out details regarding appropriate boundaries in the SAA, including appropriate arrangements for stock proof fencing. The fencing on the appeal site would appear to be at odds with these guidelines. However, as the arrangements do not form part of the planning application, it would be more appropriate that any divergence from the guidelines was addressed by the planning authority with the landowner, and if necessary with use of their enforcement powers.

8.0 Recommendation

8.1. Having regard to the matters discussed above, I consider that planning permission should be granted for the lean to extension and tack room and refused for the external area to the south and east of the development.

9.0 Reasons and Considerations

(1) Lean-to Extension and Tack Room

Having regard to the established use of the existing building on the site as stabling for horses, the modest extent of the proposed lean to extension and tack room and its location largely to the rear of the existing stable, it is considered that the proposed development, subject to compliance with the conditions set out below, would not detract from the landscape character of the area, protected views in the vicinity of the site or residential amenity and would be acceptable in terms of public health. The proposed development would therefore be in accordance with the policies and objectives of the Fingal County Development Plan 2011-2017 and the Howth SAAO and would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. Within three months of the date of this order, the developer shall submit to the planning authority for written agreement:
 - a. Details arrangements for landscaping to the rear of the lean-to extension and a timescale for implementation.

- b. A scheme for the management of surface water arising from the built structures.

Reason: In the interest of visual amenity, residential amenity and public health.

2. No waste bedding material arising from the keeping of horses in the stable block shall be kept on site.

Reason: In the interest of public health and to minimise environmental pollution.

(2) External Area

Having regard to the HA zoning of the appeal site in the Fingal County Development Plan 2011-2017, its location within the Howth Special Amenity Area, and to the policies and objectives of the County Development Plan and the Howth SAAO, which seek to protect landscape character, it is considered that the proposed external timber fence, paved and gravel area, extending into the agricultural field would substantially increase the extent of the built development on the appeal site, detract from the open and undeveloped character of the site and conflict with policies of the County Development Plan and Howth SAAO. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann
Planning Inspector

28th March 2017