



An  
Bord  
Pleanála

## Inspector's Report PL 06D.248874

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<b>Development</b>	Retention of automated vehicular and pedestrian gates and security fencing.
<b>Location</b>	'Valclusa', Church Avenue, Killiney, County Dublin
<b>Planning Authority</b>	Dún Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D17A/0393
<b>Applicant(s)</b>	Karen Barrett Baral
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Karen Barrett Baral
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	5 <sup>th</sup> October, 2017
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

- 1.1. The site of the proposed development is located in Killiney, County Dublin. It is accessed from Church Avenue via Killiney Hill Road. Church Avenue runs to the rear of houses fronting onto Shanganagh Terrace and it serves St. Alphonsus and St. Columba's Church, the rectory and Old National School. A laneway northwards in front of the church leads to 'Valclusa', a large detached house with a gatehouse, expansive garden area and a long driveway off the laneway.
- 1.2. The pedestrian and vehicular gate the subject of the appeal is located at the south-eastern corner of the holding and the security fencing runs for a short stretch in an east/west direction along part of the southern boundary with the church lands.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the retention of automated vehicular and pedestrian gates and security fencing along part of the southern boundary of the property. The gates are approximately 2.3 metres high and the fencing comprises a security mesh fence of similar height.
- 2.2. Details submitted with the application included a covering letter detailing the background to the erection of the gates and fence and appendices showing a wide range of gates to properties in the Killiney area.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 22<sup>nd</sup> June, 2017, Dún Laoghaire-Rathdown County Council decided to refuse permission for the development for one reason relating to the development being out of keeping with the special character of the Killiney Architectural Conservation Area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner noted the zoning provision for the site, the observation received, the planning history for the site and interdepartmental reports received. The Planner concurred with the Conservation Officer's findings and recommended that permission was refused.

#### **3.2.2. Other Technical Reports**

The Conservation Officer noted the site is within the Killiney Architectural Conservation area and acknowledged Policy AR12 of the Dún Laoghaire-Rathdown County Development Plan. It was submitted that the application was for the same works previously refused permission and that it did not overcome the previous reason for refusal. Reference was made to some of the planning history relating to some of the gates illustrated in the application documentation. A refusal of permission was recommended.

The Transportation Planning Engineer had no objection to the proposal.

### **3.3. Third Party Observations**

An observation was made by Fr Alex Conlan contending that the location of the security fencing is within the boundary of the adjoining church and that the fencing was not in keeping with the character of Killiney Architectural Conservation Area.

## **4.0 Planning History**

P.A. Ref. D16A/0985

Permission was refused by the planning authority for the retention of automated vehicular and pedestrian gates and security fencing.

## 5.0 Policy Context

### 5.1. Dún Laoghaire- Rathdown County Development Plan 2016-2022

#### Zoning

The site is zoned 'A' with the objective "To protect and/or improve residential amenity."

#### Built Heritage

The site is located within the Killiney Architectural Conservation Area.

Architectural heritage policies include:

#### *Policy AR12: Architectural Conservation Areas*

- i. Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA).
- ii. Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area.
- iii. Seek a high quality, sensitive design for any new development(s) that are complimentary and/ or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design.
- iv. Ensure street furniture is kept to a minimum, is of good design and any redundant street furniture removed.
- v. Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal may be synopsised as follows:

- The gate is not out of keeping with the character of the area as defined by the Killiney ACA. Numerous examples of gates of various differing styles are to be found in the area. Photographs of examples are attached.
- The design of the gate is in a traditional, conservative style that is sympathetic to the historical character of the area. It is hand fabricated, galvanised and painted black, incorporating a number of decorative elements that would be typical of mid-19<sup>th</sup> century ironwork.

## 6.2. Planning Authority Response

The planning authority submitted that the grounds of appeal do not raise any matter that would justify a change of attitude to the proposal.

## 7.0 Assessment

7.1. It is my submission that the sole planning issue relating to the proposed development is how the development does or does not comply with the requirements for developments within Architectural Conservation Areas. I note that the site of the proposed development lies within the Killiney Architectural Conservation Area (ACA) and that the document currently made publicly available by the planning authority on this ACA is entitled *Killiney Proposed Architectural Conservation Area: Character Appraisal and Recommendations*, dated December 2010. I further note the relevant guiding provisions as set out in the Dún Laoghaire-Rathdown County Development Plan, namely Section 8.2.11.3 and Policy AR12.

7.2. In reviewing the Character Appraisal and Recommendations, I note:

- It is stated that gates are a particularly dominant feature and that there are many examples representing all periods within the ACA. Examples of ironwork throughout the study area is referenced, as are contemporary styled gates.
- Owners and occupiers of non-protected structures in the ACA are made aware that works which, in the opinion of the planning authority, would materially affect the character of the ACA will require a specific grant of

planning permission. Examples of what this is likely to include are given and they include the removal or alteration of traditional stone walls or railings, including historical plot boundaries.

- The General Policy Objectives include ensuring that development in the ACA is managed in order to protect, safeguard and enhance the special character and environmental quality of the area.
- On landscape protection, the Council encourages the appropriate or sympathetic replacement of elements that detract visually from the built form, that are considered unacceptably intrusive, where their replacement or substantial alteration would improve the character of the ACA. An example given is the insensitive repair/replacement/supplementing of boundary treatments.

7.3. In reviewing the Development Plan provisions, I note:

- Under Section 8.2.11.3, all planning applications for new development within an ACA is required to have regard to a range of criteria, including developments being site specific and taking account of their context without imitating earlier styles.
- Policy AR12 seeks to protect the character and special interest of an ACA, to ensure that all development proposals are appropriate to the character of the area having regard to the Character Appraisal for the area, and it seeks a high quality, sensitive design for new developments that is complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design.

7.4. In considering the impacts of the gate and fencing, I note the comments of the Council's Conservation Officer and the Planner. The Conservation Officer submits that the application is for the same works previously sought (i.e. under P.A. Ref. D16A/0985) and that it does not overcome the previous reasons for refusal. It is stated that it is considered that the design, scale and finish (of the painted steel gate), together with the security mesh fence, has an adverse impact on the character and appearance of the ACA. The Conservation Officer recommends a refusal of permission because the development is out of keeping with the special character of the ACA and, thus, contrary to Policy AR12 of the Development Plan. I note that this

report does not explain how the development adversely impacts on the character and appearance of the ACA. I further note that the Planner relies wholly on the Conservation Officer's report for the final recommendation and does not explain how the proposed development adversely impacts on the character and appearance of the ACA. I finally note that the planning authority's reason for refusal does not explain how the conclusion is drawn that the development is out of keeping with the special character of the ACA. In the context of the current application and the available reports and conclusions drawn on this application, it is my opinion that the lack of explanation, on planning grounds, as to why this development causes such a significant impact to run contrary to the policy of the Development Plan that relates to ACAs, is most unsatisfactory.

- 7.5. With regard to the previous planning application, P.A. Ref. D16A/0985, the Board will note that the report of the Conservation Officer did not explain how the proposed gate and fencing was out of keeping with the special character of the ACA. It is also noted that the Planner relied wholly on the Conservation Officer's report for the final recommendation and that the reason for refusal issued for that application was the same as that used in the most recent decision.
- 7.6. In considering the impact of the development, I acknowledge that 'Valclusa', its associated gatehouse, boundaries, etc. are not listed on the Record of Protected Structures in the Dún Laoghaire-Rathdown County Development Plan. The house is accessed from Church Avenue via a narrow laneway and the holding is very much secluded from the wider public realm. I acknowledge that the gate is over two metres high and is a painted steel gate. Furthermore, it is noted that the mesh fencing forms a short part of the southern boundary with St. Alphonsus and St. Columba's Church, which is a protected structure.
- 7.7. In reviewing the development in its context, I consider that it is reasonable to determine that the remoteness of the development leads one to conclude that it is not a development that has a demonstrably adverse impact on the visual quality of the wider ACA. In addition, it is noted that there is an expansive array of gate types within this ACA, inclusive of traditional wrought iron and contemporary gates, many of which use a variety of finishes and are of varying heights. The proposed gate, in its secluded context and in its ACA context, could not reasonably be viewed as being out of character with gateway provision throughout this ACA. When measured

against the provisions of the Character Appraisal and Recommendations, it portrays no features that openly rebuke the provisions set out in the Appraisal and Recommendations. Indeed, it is acknowledged that the gate design follows a traditional style in presentation.

- 7.8. With regard to the fencing, I note that this replaces some palisade fencing along a boundary that otherwise comprises a concrete block wall, palisade fencing and barbed wire. The fencing is light in nature and does not affect existing vegetation. The fencing is along a very short section of the southern boundary. It is virtually not visible from the church grounds unless one is close to the northern end of the hall at the eastern end of the curtilage of the church. Existing vegetation hides the fence. It is understandable that there is a need for fencing for security reasons and, in its context, the fence is a suitable response to achieve adequate security. This fencing, having regard to the mix of boundary types and to the established vegetation, causes no significant adverse visual impact.
- 7.9. Having regard to the above, I am of the opinion that the proposed development would not have any significant adverse impact on Killiney Architectural Conservation Area. Thus, the proposed development would not be contrary to Policy AR12 of the Dún Laoghaire-Rathdown County Development Plan.
- 7.10. In noting the observer submission to the planning authority relating to the siting of part of the development within church lands, it is acknowledged that a grant of permission does not bestow legal title and any such dispute is a matter appropriately addressed outside of the planning application process. The Board will note the provisions of section 34(13) of the Planning and Development Act, whereby it is clearly stated that a person shall not be entitled solely by reason of a permission under section 34 to carry out any development.

## 8.0 Recommendation

- 8.1. I recommend that permission is granted in accordance with the following reasons and considerations.



## 9.0 Reasons and Considerations

Having regard to location of the proposed development, being remotely located within the Killiney Architectural Conservation Area (ACA), to the design and character of the proposed gate reflecting traditional design characteristics, to the range of gates and boundary types prevalent in the vicinity of the site and within the ACA, it is considered that the proposed development would comprise an appropriate boundary treatment for 'Valclusa', would not be out of character with the variety of gates and fencing within the ACA, and would constitute a visually acceptable boundary provision. The proposed development would, thus, be in accordance with the provisions of the current Dún Laoghaire-Rathdown County Development Plan as they relate to Architectural Conservation Areas and would, thereby, be in accordance with the proper planning and sustainable development of the area.

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Kevin Moore  
Senior Planning Inspector

5<sup>th</sup> October 2017