



An
Bord
Pleanála

Inspector's Report ABP-300886-18

Development	Permission for variations to existing Grant of Permission
Location	The Studio, Harbour Road, Dalkey, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D17A/0846
Applicant(s)	Harold Rinde and Nicole Stephenson Rinde
Type of Application	Permission
Planning Authority Decision	To Grant Permission
Type of Appeal	Third Party
Appellant(s)	Robert and Simone Stephenson and John Stephenson
Observer(s)	No observers
Date of Site Inspection	29.05.2018
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The subject site is located on Harbour Road, Dalkey. The site currently accommodates a three storey house constructed in the early 1990's known as Bartra Studio. Access to the site is from a shared vehicular entrance with Bartra Cove (a separate dwelling) onto Harbour Road. Bartra Cove abuts the site to the north east. A stone boundary wall of approximately 2.2 metres in height bounds the site to the south and to the main road. Bartra House, a protected structure adjoins the site to the north. Beulah House is located to the east.

2.0 Proposed Development

- 2.1. The proposed development comprises variations to a previously approved development permitted under Planning Authority Reference D15A/0656 for the demolition of an existing 3 storey dwelling and the construction of a new replacement 3 storey dwelling. The proposed alterations include a small reduction in the overall floor area of the dwelling from 245 sq. m. to 243 sq. m., alterations to the facades at all levels, omission of the east facing terrace at first floor level, alterations to the extent of the south facing terrace and provision of a garage.
- 2.2. The proposed design of the dwelling is generally similar to that previously permitted, albeit with elevational amendments. The proposed west elevation will comprise a full height glazing panel and glass balustrade at first floor level. The east elevation will comprise a full height glazing panel at ground and first floor levels. Fenestration is also proposed at second floor level on the east elevation. The proposed south elevation will comprise a full height glazing panel and glass balustrade at first floor level with a glazing ope to the proposed external space at second floor level. The permitted terrace on the southern elevation will be modified to include a new external staircase. The northern elevation has more limited fenestration at ground and first floor level.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 To Grant Permission subject to conditions. All conditions are standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports (13.11.2017 and 15.01.2018)

- The precedent for a detached contemporary dwelling at this location has been set and was deemed acceptable under Reg. ref. D15A/0656.
- As a result of the modifications, the dwelling will be a minimum of 25 metres and a maximum of 28 metres from the adjoining dwelling at Bartra Cove to the east/northeast. The omission of the terrace facing Barta Cove is welcomed. As noted in the previous assessment, it is considered given the design of the dwelling, its position on the site and relationship to adjacent dwellings and the distances to adjacent dwellings, it will not detract from residential amenity in the area.
- The proposed modifications to the elevations are considered acceptable and will not impact on the overall design of the dwelling as permitted. It is considered that dwelling will enhance visual amenity in the area and is acceptable.

3.2.2. Other Technical Reports

Drainage Planning (03.11.2017 and 28.12.2017): No objection subject to conditions.

Transportation Planning (31.10.2017): No objection subject to conditions.

Conservation Officer (02.11.2017): No objection. Stated that whilst they have a preference for the design and architectural treatment approved under the previous permission and its contribution to enhance the streetscape character, they have no heritage concerns regarding the proposal.

3.3. Prescribed Bodies

- No submissions received.

3.4. Third Party Observations

Robert and Simone Stephenson, Bartra Cove, Harbour Road, Dalkey and John Stephenson, 6 Bessborough Hall, Bessborough Parade, Dublin 6

2 no. third party observations were made. The issues raised can be summarised as follows:

- The proposed new house due to its scale, bulk, style and orientation will have a negative impact on Bartra Cove. The proposed amendments are a further encroachment on the integrity of Bartra Cove.
- The proposed new house as sited is not a secondary structure and its footprint encroaches on the existing entrance area. The shared entrance for the two properties is untenable and will severely restrict access to Bartra Cove.
- Concerns regarding the external stairs structure which is considered to be a large structural feature which will seriously detract from the character and scale of the entrance to Bartra Cove. Consider that a separate entrance to the site should be provided for.
- Consider that that the fenestration proposed on the eastern elevation will cause serious overlooking of Bartra Cove. Request that these be either omitted or be reduced and be fully obscured/screened.
- State that the residual strip of land to the rear of the proposed new house should be reinstated as part of the Bartra Cove front garden site, which would considerably lessen the impact that the proposed development would have on this dwelling.
- The concrete render finish is out of character with the surrounding houses and will injure the visual amenities of the area. A landscaping plan should be drawn up to ensure adequate screening between the sites.

- Concerns regarding potential impacts during construction phase and access by emergency vehicles. Consider that a separate construction entrance should be provided.

4.0 Planning History

Planning Authority Reference D15A/0656

- 4.1 Permission granted in December 2015 for the demolition of the existing house on the site and the construction of a replacement 3 storey dwelling consisting of 3 no. bedrooms on the ground floor, living areas on first and second floors (with screened external terraces to all levels) and all associated ancillary site/landscaping works.

Planning Authority Reference D13A/0438

- 4.2 Planning permission granted in October 2013 for a two storey extension to the existing Studio and the separation of the existing studio from the main house at Bartra Cove with the formation of a new site, a solar panel to the existing south facing roof and all associated minor works.
- 4.3 In assessing the subdivision of the site, the Planners' Report noted *"I am satisfied that the subdivision of the site can be achieved without negatively impacting on the sylvan character and setting of the existing house at Bartra Cove. The existing house will still have a private setting with substantial open space."*

5.0 Policy Context

5.1. Development Plan

- 5.1.1 The operative development plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The subject site is zoned Objective A: *'To protect and/or improve residential amenity'*. **Section 8.2.3** sets out guidance regarding Quality Residential Design. **Section 8.2.3.4 (vii)** addresses infill development and states: *"New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings."* **Section 8.2.11.2 (iii) Development in**

Proximity to a Protected Structure notes *“any proposed development within the curtilage, attendant grounds or in close proximity to a Protected Structure has the potential to adversely affect its setting and amenity. The overall guiding principle will be an insistence on high quality in both materials and design which both respects and compliments the Protected Structure and its setting. Innovative design in accordance with international best practice is encouraged”*. Criteria for the assessment of such proposals are set out.

5.2. Other Policy

Architectural Heritage Protection – Guidelines for Planning Authorities 2011

Section 13.5 – Development within the Curtilage of a Protected Structure:

“Proposals for new development within the curtilage of a protected structure should be carefully scrutinised by the planning authority, as inappropriate development will be detrimental to the character of the structure.”

5.3. Natural Heritage Designations

5.3.1 The nearest Natura 2000 site is the Dalkey Islands SPA located c. 0.7km to the south east of the site.

6.0 The Appeal

6.1. Grounds of Appeal

Robert and Simone Stephenson, Bartra Cove, Harbour Road, Dalkey and John Stephenson, 6 Bessborough Hall, Bessborough Parade, Dublin 6.

- The formation of a new site at Bartra Cove separating the Studio site from the main property was based on the premise that the Studio was to be retained and extended in its current set back location. The fact that no appeal was made to the Board on the previous application is not a sufficiently strong reason to accept the decision of the Planning Authority without a fresh review of the planning merits of the development. Request that the development be considered de novo with regard to the context and the need to protect Bartra

Cove and that appropriate restrictions are imposed to protect the amenities of Bartra Cove.

- The changes to the elevational treatment of the east façade is considered materially different. The original treatment included vertical fins across the fenestration which acted as screening devices. These were to be used as supports for planting which would further screen the windows and prevent overlooking to the front of Bartra Cove. The elevation as now proposed makes no attempt to screen the large windows and opes. Request that the elevation treatment should be refused or that strict conditions are imposed to eliminate or obscure the large windows or to redesign the façade to avoid overlooking.
- State that site landscaping of an undetermined nature is not deemed an adequate solution to overlooking and privacy issues, especially as the main living rooms of the proposed dwelling are at 1st and 2nd floor level.
- Consider that the development due the encroachment and overhanging external stairs at the entrance would make the entrance to Bartra Cove untenable. State that the new dwelling should be served by a separate entrance from Harbour Road. The existing pedestrian entrance could be extended to facilitate this. Concern that the traffic movements generated by this new dwelling will endanger pedestrians and car users along the shared access. The omission of the sliding gate on the boundary of the site towards the Bartra Cove driveway means that clear and unencumbered access to Bartra Cove will be denied. The applicants should utilised their own property for the provision of entering their site by car and use their own site to turn and park their cars. A firm boundary should be put in pace along the driveway to separate the properties into two autonomous and self-sufficient sites. Consider that permission for the garage should be refused to allow for a separate entrance in the future.
- State that the external stairs is a functionless extravagance, incongruous and has a negative impact on the open space to the front of the dwelling and the amenity value of the private open space to the road entrance and driveway to Bartra Cove. Concern also raised regarding the proposed landscape contouring along the boundaries with Bartra Cove.

- In the interests of the amenity value of the two properties, the appellants request that the original boundary line separating the front boundary of Bartra Cove from the subject site be reinstated. A shift in the boundary between the sites by 1.8 metres approximately reverting back to the boundary line of the original planning permission to separate the sites would rectify the imbalance and contribute to the protection of the private open space and amenities of the front garden of Bartra Cove.
- Concerns regarding construction stage impacts and that no method statement outlining how the building process on the site will be managed has been submitted.

6.2. Applicant Response

- Note that there are a number of inaccuracies in the visual documentation submitted as part of the appeal. State that there is no cantilevered trellis structure at second floor or roof level as indicated.
- The height of the proposed new dwelling is comparable to that of the existing structure to be demolished and the adjoining Bartra Cove. With regard to potential impacts on the amenity of the adjoining structure, notes that the footprint of the new dwelling has been reduced from the original submission and the separation distance from Bartra Cove increased from 25.2 metres to 28.7 metres. In addition, the east facing first floor terrace has been removed and the 2nd floor window on this elevation has also been reduced in scale.
- Concerns that the omission of the previously proposed vertical fin cladding will have an adverse effect on the amenity of the adjoining dwelling are unfounded. Submit that the amount of screening provided by the revised façade treatment, which is now proposed to be a solid skin punctuated by a series of openings in a variety of sizes and locations, will actually increase the amount of screening between the external terraces on the proposed new dwelling and the adjoining structure. Notes that there are already views from the existing dwelling of the front garden of the adjoining dwelling.
- The creation of a new and separate entrance gates presents certain challenges in respect of traffic management and safe entry/exit onto the site. In this regard,

it is proposed to utilise the existing and established gateway. The design of the entrance to the proposed dwelling has not substantially changed from that in the original grant of permission. A new entrance would require a new planning application and is not relevant to the assessment of the current application.

- The design of the external stairs is clearly shown as being set into the surrounding landscape and does not overhang the site at any point. The suggestion that clear and unencumbered access to the adjoining dwelling is blocked is inaccurate and vexatious. The existing passageway in this area will be retained. The opinion that the external stairs is superfluous and incongruous is subjective. It will have no impact on adjoining open space as it is located within the confines of the garden space of the proposed dwelling.
- The extent of the site for the proposed new development was defined at the time the property was purchased in 2014. The boundary proposed is the same as that previously submitted under the previous planning application. The map submitted with the appellants objection is incorrect and omits the 1 metre widening of the driveway to Bartra Cove which occurred by agreement at the time of the sale in 2014.
- Any discussion surrounding the future value of the adjoining dwelling is not relevant to assessment of this current application.
- The suggestion that permission for the proposed garage should be refused on the grounds that it impedes the safe entry /exit of the site is unfounded and contrary to the auto tracker analysis carried out.
- Normal provisions in respect of health and safety are included in the decision to grant permission.

6.3. Planning Authority Response

- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.4. **Observations**

- No observations.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Impact on Residential Amenity
- Access
- Other Issues
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1 The proposed development comprises amendments to a previously approved dwelling and permission for a new garage. The amendments are generally minor and comprise reconfiguration of internal accommodation; minor adjustment to the siting of the house and a decrease in its overall floor area by 2 sq. metres; elevational amendments including the omission of a previously approved terrace on the eastern elevation and a new external staircase.

7.2.2 It is contended by the appellants that the development should be considered de novo having regard to its context and the need to protect the adjacent dwelling Bartra Cove. It is stated that the scale and siting of the development are valid grounds of refusal. However, what is before the Board are amendments to a previously approved development. The principle of the demolition of the existing house and redevelopment of the subject site for a new dwelling has already been adjudicated upon and determined by the Planning Authority under Planning Authority Reference D15A/0656. Furthermore, the subdivision of the site from Bartra Cove was previously permitted under Planning Authority Reference D13A/0438. There are no material amendments to the siting, scale or height of the development under the current application. In fact, the design as currently proposed is more streamlined than that

previously granted due to the omission of the eastern terrace at first floor level and the reduction of the footprint of the ground floor level. I consider, therefore, that it would be ultra vires for the Board to consider the development from first principles and only the amendments as proposed should be considered in the assessment.

7.2.3 The appellants also suggest a number of amendments to the proposal, including a separate vehicular access and relocation of the site boundary. The proposed boundary of the site is the same as that previously permitted. I consider that these suggested amendments are material changes to the nature and extent of the development as proposed and are, therefore, outside the scope of this assessment.

7.2.4 With regard to the proposed amendments, these in my view are generally cosmetic and minor in nature and have no material impact on the development as previously permitted. The modifications will reduce the scale of the dwelling. They are, therefore, acceptable in principle.

Impact on Residential Amenity

7.2.5 Concerns have been raised by the appellants regarding potential overlooking impacts from the development towards Bartra Cove due to the proposed omission of the vertical fins on the fenestration on the eastern elevation. The original application as submitted detailed the function of these fins and stated:

“Within the proposed new dwelling, all living and dining spaces face onto screened external terraces either at first floor or second floor level. The finned screens and planting to these terraces has been carefully considered to minimise any overlooking of neighbouring properties while also seasonally orchestrating the ingress of sunlight into the internal spaces and thus optimising the energy performance of the building.”

7.2.6 The proposed eastern elevation is shown on drawing 1706 L 104. Whilst the vertical fins are now omitted from the design proposal, it can also be seen that it is proposed to omit the extensive first floor terrace along this elevation that was previously approved. This measure, is in my view, an enhancement of the design and significantly reduces any overlooking impacts on Bartra Cove. What is now proposed is a large window serving living accommodation at first floor level and a further window at 2nd floor level serving an office. The office fenestration is reduced in scale from that previously approved. The proposed dwelling is set back considerably from Bartra Cove. The separation distances range from c. 23.8 metres to 30 metres. The

separation distances between the proposed dwelling and that previously approved has increased due to the reduction in the overall footprint of the dwelling at ground and omission of eastern terrace first floor level.

7.2.7 It is noted that the normal acceptable separation distance between dwellings back to back is 22 metres. Whilst there is no similar standard for dwellings facing front to front, I consider the proposed separation distance more than adequate to protect the amenities of Bartra Cove. Furthermore, it is noted that mature landscaping exists along the eastern boundary between the two properties and it is proposed to provide additional native planting long this boundary to provide additional screening. There is an absence of detail regarding the nature and extent of this landscaping. This however, can be addressed by way of condition. This will further mitigate any potential impacts. Having regard to the foregoing, I am satisfied that there will be no adverse impact on the residential amenities of Bartra Cove due to overlooking.

7.3 Access

7.3.1 Concerns have been raised by the appellants regarding access to the dwelling and in particular the omission of the gated entrance to the Studio site from the common access driveway. As indicated on the application drawings, there is an existing right of way along the shared access and driveway from Harbour Road. The application proposes to omit the previously approved entrance gate to the dwelling from the driveway and instead have a more open arrangement with no defined boundary treatment between the driveway and dwelling. It is noted that at present there is no boundary in place along the driveway that separates the Studio and Bartra Cove into two autonomous sites. The proposed development, therefore, does not alter the status quo. In my view the more open arrangement is preferable and less defensive than that previously approved.

7.3.2 I do not concur with the appellants that this arrangement would in any way hinder access to Bartra Cove. In fact an electronic gate arrangement serving the proposed dwelling could potentially delay a car from entering the shared driveway, if a car was queued waiting to access the Studio site. The open arrangement allows cars to egress and access the site with greater ease. I also note that there was no objection to this arrangement from the Transportation Planning Section of the Council. I am satisfied that the development will not result in any impediment to access or give rise

to a traffic hazard. I am also satisfied that the proposed standalone garage is satisfactory and as previously noted, any future proposal for a separate access to the site would require a separate grant of permission and is not appropriate to address by way of condition.

- 7.3.3 With regard to the external staircase, I concur with the applicants that the appellant's comments regarding the design of this element of the proposal to be somewhat subjective. In my view, the staircase is an interesting architectural feature and complements the contemporary design of the dwelling. As is evident from the drawings, the proposed staircase is within the confines of the applicant's site and does not cantilever over or impede access along the shared driveway. The concerns that the proposed amendments to the permitted scheme would severely restrict access to Bartra Cove are in my view unfounded.

7.4 **Other Issues**

Construction Impacts

- 7.4.1 Whilst concerns have been raised regarding potential construction impacts, I would concur with the applicant that these can be mitigated through appropriate construction management measures. I note that condition 2 and 6 of the permission granted under D15A/0656 addresses such measures and I propose an additional condition regarding the submission of a Construction Management Plan.

Impact on Property Values

- 7.4.2 No evidence has been submitted to support the claim that the proposed development would result in devaluation of property. Having regard to the size of the site, the separation distance to adjoining properties and the high quality design of the dwelling, I would not consider that the proposal would result in the devaluation of property in the vicinity.

7.5 **Appropriate Assessment**

- 7.5.1 Having regard to the nature and scale of the proposed development, amendments to a previously approved dwelling within an established urban area, and its distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the current Dun Laoghaire Rathdown County Development Plan 2016-2022, the location of the site in an established residential area and its zoning for residential purposes, to the planning history of the site and to the nature, form, scale and design of the proposed amendments to the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 11th day of December 2017 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The applicant shall comply with all conditions of the previous permission relating to the site covering the wider development area (Reg. Ref. D15A/0656), unless required to do so otherwise by any condition attached to this permission.

Reason: In the interest of clarity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. (a) The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

(b) Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 14.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interests of public safety and residential amenity.

5. (a) A scheme indicating boundary treatment along all boundaries of the site shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the boundaries consisting predominantly of trees, shrubs and hedging of native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder species. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.

(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development

shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and in the interest of visual amenity.

Erika Casey
Senior Planning Inspector

30th May 2018