



An
Bord
Pleanála

Inspector's Report ABP 304356-19.

Development	Construction of a house within the curtilage of a Protected Structure
Location	Ardfallen, Cunningham Road, Dalkey, Co. Dublin
Planning Authority	Dun Laoghaire-Rathdown Co. Council.
Planning Authority Reg. Ref.	D19A/0091
Applicant	Margaret Ryan
Type of Application	Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party
Appellant	Margaret Ryan
Observers	none
Date of Site Inspection	22/8/2019
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.09 hectares is located at Cunningham Road, Dalkey, Co. Dublin. Cunningham Road links Dalkey Avenue and Ardeevin Road and is situated to the south of Dalkey Village. Cunningham Road is residential road which consists of a mix of contemporary and traditional designed houses which are a mix of single storey, dormer and two-storey in height. Dalkey Dart Station is situated circa 170m to the north of the site.
- 1.2. The site comprises the northern section of the plot of 'Ardfallen'. 'Ardfallen' (Protected Structure) is a large two-storey detached Victorian property which features elements of a Gothic revival architectural style. It is served by a large formal rear garden laid out with three terraces. The appeal site is a flat grassed rectangular section of the rear garden. The boundary adjoins Village Gate to the north. There is an existing gated entrance onto Cunningham Road which provides access to the rear garden of 'Ardfallen'. The roadside boundary is formed by a granite stonewall.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a house within the curtilage of a Protected Structure. Features of the scheme include;
 - Two storey detached dwelling with a floor area of 338.5sq m,
 - Single storey detached garage,
 - Widening of existing vehicular entrance to Cunningham Road.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason;

1. Having regard to the overall size of the subject site together with its proximity to high frequency public transport links– Dalkey Dart Station, the resultant

residential density of 11 dwelling units per hectare is not considered to be of a sufficient high density and fail to comply with the provisions of Policy RES3: 'Residential Density' in the Dun Laoghaire-Rathdown County Development Plan, 2016-2022. The proposed development would therefore be contrary to a development objective set out within the Dun Laoghaire-Rathdown County Development Plan, 2016-2022 and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- It was concluded that while the principle of residential development would be acceptable within the site, the proposal to provide only one large dwelling within a well located, serviced brownfield site would fail to comply with Policy RES3: 'Residential Density' within the Dun Laoghaire Rathdown Co. Development Plan 2016-2022, which promotes higher residential densities in line with National policy. Permission was recommended for refusal on that basis.

3.2.2. Other Technical Reports

Transportation Planning: No objections subject to conditions.

Drainage Planning: No objections subject to conditions.

Conservation Division: Report raised concern in relation to the bulk of the proposed dwelling and recommended that the relocated entrance piers should remain unrendered.

3.2.3. Prescribed Bodies

None received

3.3. Third Party Observations

- 3.3.1. The Planning Authority did not receive any submissions/observations in relation to the application.

4.0 Planning History

- None relevant

5.0 Policy Context

5.1. Project Ireland 2040 - National Planning Framework

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".
- 5.1.2. National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".
- 5.1.3. National Planning Objective 13 also provides that "In urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected".

5.2. Section 28 Ministerial Guidelines

- 5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.
- 'Urban Development and Building Heights' Guidelines for Planning Authorities
 - 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')

- ‘Design Manual for Urban Roads and Streets’ (DMURS)

5.3. **Architectural Heritage Protection, Guidelines for Planning Authorities, DoEHLG, 2011**

- 5.3.1. Section 13.8 refers to Development affecting the Setting of a Protected Structure or an Architectural Conservation Area.

5.4. **Dún Laoghaire – Rathdown County Development Plan 2016-2022.**

- 5.4.1. The site is zoned Objective ‘A’ with a stated objective ‘to protect and/or improve residential amenity’.

- 5.4.2. Ardfallen – Cunningham Road, Dalkey, Co. Dublin – House – RPS No: 1532

- 5.4.3. Chapter 2 – Sustainable Communities Strategy

Section 2.1.3.3 – Policy RES3: Residential Density

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following

Guidelines:

- ‘Sustainable Residential Development in Urban Areas’ (DoEHLG 2009).
- ‘Urban Design Manual - A Best Practice Guide’ (DoEHLG 2009).
- ‘Quality Housing for Sustainable Communities’ (DoEHLG 2007).
- ‘Irish Design Manual for Urban Roads and Streets’ (DTTaS and DoECLG, 2013).
- ‘National Climate Change Adaptation Framework - Building Resilience to Climate Change’ (DoECLG,2013).

- 5.4.4. Chapter 8 – Principles of Development

Section 8.2.3.2(ii) Residential density

Section 8.2.3.4 Additional Accommodation in Existing Built-up Areas

Section 8.2.3.4(vii) Infill

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.

This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from Architectural Conservation Area status or similar. (Refer also to Section 8.2.3.4 (v) corner/side garden sites for development parameters, Policy AR5, Section 6.1.3.5 and Policy AR8, Section 6.1.3.8).

5.5. Natural Heritage Designations

The nearest Natura 2000 sites are;

- Rockabill to Dalkey Island SAC is approximately 684m to the east of the appeal site.
- Dalkey Island SAC is approximately 936m to the east of the appeal site.

5.6. Environmental Impact Assessment (EIA)

- 5.6.1. Having regard to the nature and scale of the proposed development comprising the construction of a new two-storey detached house there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was lodged by Manahan Planners on behalf of the applicant Margaret Ryan. The main issues raised are as follows;

- The site of the development is a Protected Structure which has a large formal garden to the rear. The site slopes steeply to the rear and the garden has been laid out in a series of terraces. It is noted that there is a natural division towards the rear of the site which divides the bottom of the garden and provides a potential separate site.
- The applicant is seeking to construct an additional house in this area in order for them to downsize. It is noted that this area is served by a separate direct vehicular access onto Cunningham Road. A separate vehicular and pedestrian access to the site is proposed at this location.
- It is submitted that it would have been possible for the applicant to apply for a multi dwelling development scheme on the site, however it is her strong wish that only one dwelling be built at this location.
- In relation to the siting and design of the dwelling, it is submitted that the location and intervening slope of the land minimise the impact on the Protected Structure. A contemporary house design is proposed to takes into account of both the proximity of the Protected Structure and also the nature of the surrounding area.
- The report of the Planning Officer refers to concerns with the density of the proposal in an area close to public transport. The report of the Conservation Officer raised concerns in relation to the proposed one dwelling being built within the curtilage of a Protected Structure. It is also noted that reports from the Transportation Division and the Drainage Division had no objection to the proposal, however they did not refer to the potential for a multi house development. The Planning Officer seeks to encourage smaller units in this area to facilitate a range of house types. It is submitted that it is not a sufficiently large site for such a process.

- The site is within the curtilage of a Protected Structure and this places constraints. Any development must be deferential to and secondary to the Protected Structure. There is a natural division in the rear garden, wherein sufficient garden area can remain with the Protected Structure which would be appropriate to its size and context and providing an area of the garden for development. It is also highlighted that the area proposed for development is at a significantly lower level than the rest of the garden and is divided from the main house and garden by a hedge.
- The applicant wishes to build one dwelling for her own use and that of her family. It is stated that the applicant will not be applying for a multi house development in the garden of her property and that she considers that the development of one house would be respectful of the main house.
- The section of road where the proposed vehicular access is located on Cunningham Road is a narrow section of road. There is two-way traffic with permit parking along the road. It is noted that often cars have to wait to pass. It is submitted that the road is unsuitable as an access for a multi house development.
- In relation to Development Plan policy RES3 while the Planning Authority lean heavily on the fact that the site is located within 1km of the Dart station. However, the first party submits that this should not be the only consideration and that other factors should also be considered. As per policy RES3 the nature and character of the area should also be considered when assessing whether a higher density development is a suitable/better solution for the site. It is argued that a higher density development is a not a suitable solution for the site.
- 'Ardfallen' is located within an area with a distinctive character which has been set in part by the low density of development. The area includes individual houses, many of which period properties which are setback from the road and located within mature well landscaped gardens. This character is worthy of protection and it is submitted that the proposal would be consistent with the existing pattern and character of development.

- It is noted that the area located in proximity to Killiney Dart Station has a similar character of low density period houses surrounding the station. However, the “o/o” zoning prohibits any additional buildings. This designation has been applied in the interests of protecting the existing low density character of the area. Therefore, the Planning Authority regard the protection of the character of the area to be a valid planning objective notwithstanding the location of the Dart station.
- Having regard to all the factors outlined in the appeal, it is submitted that the proposal is the most suitable form of development for this portion of the rear garden. It is submitted that the proposal is consistent with the provisions of the Development Plan and with the proper planning and sustainable development of the area.
- The applicant requests that the Board grant permission for the proposal.

6.2. Planning Authority Response

- 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.
- The Board is referred to the report of the Planning Officer.

7.0 Assessment

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

- Development Plan and policy context
- Impact upon Protected Structure
- Appropriate Assessment

7.1. Development Plan and policy context

7.1.1. This appeal relates to the development of a detached and two-storey dwelling on an infill site with an area of 0.09 hectares at on Ardfallen, Cunningham Road, Dalkey, Co. Dublin. The site is zoned Objective A 'to protect and/or improve residential amenity'. Accordingly, residential development is permitted in principle. Chapter 2 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 refers to Sustainable Communities Strategy and chapter 8 refers to Principle of Development. The current proposal for the construction of 1 no. dwelling at Ardfallen was assessed by the Planning Authority having regard specifically to those sections of the Development Plan.

7.1.2.

7.1.3. Section 2.1.3.3 of the Development Plan refers to Residential Density and policy RES3 sets out the Council's policy in relation to residential densities. Policy RES3 states;

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- *'Sustainable Residential Development in Urban Areas' (DoEHLG 2009).*
- *'Urban Design Manual - A Best Practice Guide' (DoEHLG 2009).*
- *'Quality Housing for Sustainable Communities' (DoEHLG 2007).*
- *'Irish Design Manual for Urban Roads and Streets' (DTTaS and DoECLG, 2013).*
- *'National Climate Change Adaptation Framework - Building Resilience to Climate Change' (DoECLG,2013).*

- 7.1.4. Section 8.2.3.2(ii) of the Development Plan also refers to residential density it recommends that minimum residential densities should be 35 dwellings per hectare. However, the provision of densities at higher than 50 dwellings per hectare at locations readily accessible to public transport corridors – QBCs, Luas, DART is sought.
- 7.1.5. National policy and Ministerial Guidance also seek increased residential at appropriate locations. National Policy Objective 35 of the National Planning Framework (2018) seeks, *“increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.”*
- 7.1.6. Specific Planning Policy Requirement 1 of the Ministerial Guidelines – “Urban Development and Building Heights” (2018) seeks to promote and support increased density in locations with good public transport accessibility and Section 5.8 of the Ministerial Guidelines –Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) seeks to encourage increased densities in appropriate location through more economic use of existing infrastructure and serviced land. Policy RES3 of the Dún Laoghaire-Rathdown County Development Plan has been framed having regard to the provisions of the Sustainable Residential Development guidelines. The subsequent Ministerial Guidelines and the National Planning Framework further promote the provision of higher densities in order to secure compact urban growth through the consolidation of development within existing urban and suburban locations.
- 7.1.7. The site area is 0.09 hectares and the total area of the proposed development is 338.5sq m. The proposed scheme of 1 no. house on the 0.09 hectares site equates to a density of roughly 11 no. units per hectare.
- 7.1.8. The subject site at Cunningham Road, Dalkey is situated approximately 170m from Dalkey Dart Station. I consider that it is appropriate given the relative proximity of the site to the high frequency public transport link that the residential development of the site should be carried out at a higher density than proposed having regard to the Development Plan policy and specifically the provisions of Policy RES3 and also the

relevant provisions of the National Planning Framework and the aforementioned Ministerial Guidelines.

- 7.1.9. The first party appellants have requested that the Board have regard to the site context and the established character of the area which is described as comprising predominately substantial detached dwellings many of which period properties on large plots within mature well landscaped gardens. In relation to this I note that while this description is relevant to certain properties along Cunningham Road there are other properties in the surrounding area which have been developed a higher density, this includes the Village Gate housing development immediately to the north-east of the site. It is also set out in the appeal that the development of a multi housing development would impact upon the character and setting of 'Ardfallen' (Protected Structure). In relation to this issue, I would note the significant distance between 'Ardfallen' and the appeal site, the topography of the site as it declines towards the appeal site and also the existing mature hedging which provides a distinct separation between the main house 'Ardfallen' its large terraced rear garden and the appeal site to the northern end of the overall curtilage of the property. Therefore, subject to an innovative design and layout I also consider that the site could be developed a higher density without undue impact upon the character and setting of the Protected Structure.
- 7.1.10. The appellant further considers that Policy RES3 is not intended to preclude a low density development and that it is explicit in the policy that regard must be had to the suitability of the scheme having regard to the established context and character of an area. Therefore, the appellant contends that a higher density scheme would not be in accordance with the established character of the area. The matter of the suitability of the proposed site access onto Cunningham Road for additional residential properties is also raised in the appeal. Having inspected the site and proposed vehicular access I note that sightlines of over 45m are available in both directions in accordance with Table 4.2 of 'Design Manual for Urban Roads and Streets' (DMURS) (2013).
- 7.1.11. In the case of the subject site I would concur with the assessment of the Planning Authority that a higher residential density should be provided on the site having regard to the proximity of the site to high frequency public transport links and that the

proposed development would represent an inefficient and unsustainable use of serviced zoned land.

7.2. Impact upon Protected Structure

- 7.2.1. It is proposed to sub-divide the site at Ardfallen and construct a detached, two-storey dwelling circa 379m to the north of Ardfallen. Ardfallen is a Protected Structure. It is a large Victorian dwelling which features elements of a Gothic revival architectural style. In relation to the potential impact of the new dwelling on the character and setting of Ardfallen, there would be a significant separation between the two properties. Having regard to the topography of the site whereby the ground level to the front of Ardfallen as indicated on the contextual elevation Drawing No: 1817 P04 is 45.19 and the ground level at the site of the proposed dwelling is 38.78 this ensures that the character and setting of Ardfallen as the larger dwelling and located at a higher site level would not in my opinion be diminished by the proposed dwelling. Furthermore, I note the location of a high mature hedge which divides the site from the proposed remaining rear garden of the Protected Structure.
- 7.2.2. Accordingly, while the proposed scheme would result in the sub-division of the curtilage of Ardfallen, having visited the site and viewed the proposed elevations I am of the opinion that the proposed new development has been designed having specific regard to protecting the character and setting of Ardfallen.

7.3. Appropriate Assessment

- 7.3.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity 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. To refuse permission for the following reasons and considerations.

9.0 Reasons and Considerations

1. The proposed development is located in an area zoned Objective A 'to protect and/or improve residential amenity' in the current Dún Laoghaire-Rathdown County Development Plan 2016-2022 and the site is located within close proximity to high frequency public transport links– Dalkey Dart Station. Having regard to the provisions of the National Planning Framework (2018) specifically National Policy Objective 35 and Ministerial Guidelines, "Urban Development and Building Heights" (2018) specifically SPPR1 and the provisions of "Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas" (2009) specifically Section 5.8, the Board considered that the proposal would fail to achieve a satisfactory density of residential development in accordance with the National Planning Framework and Ministerial Guidelines. Furthermore, having regard to the provisions of the Development Plan specifically Policy RES3 which refers to residential densities and states that it is Council policy to promote higher residential densities to provide for sustainable residential development specifically on sites in close proximity to public transport, it is considered that the proposed density of the scheme at approximately eleven (11) units per hectare, is not considered to be of a sufficiently high density. Accordingly, it is considered that the proposed development would represent an inefficient and unsustainable use of serviced, zoned land and would be contrary to the proper planning and sustainable development of the area.

Siobhan Carroll
Planning Inspector

26th of August 2019