



An  
Bord  
Pleanála

## Inspector's Report ABP-305678-19.

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<b>Development</b>	Construction of a new pedestrian entrance gate, widening of existing entrance gate and all other associated works.
<b>Location</b>	Coolmanagh, Old Carrickbrack Road, Howth, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	FA19A/0323.
<b>Applicant(s)</b>	Lorena Killeen.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	Lorena Killeen.
<b>Observer(s)</b>	Jacqueline Feeley.
<b>Date of Site Inspection</b>	07 <sup>th</sup> of December 2019.
<b>Inspector</b>	Karen Hamilton.

## 1.0 Site Location and Description

- 1.1. The subject site contains a large split level dwelling situated along the south of Howth Head, Co Dublin. The site stretches between the Old Carrickbrack Road, to the north and slopes down to meet the Carrickbrack Road along the north. Vehicular access is provided into the site from the Old Carrickbrack Road to the north which is rural in nature and provides access to similar dwellings set on private sites.
- 1.2. A small footpath runs along the front of the northern boundary wall which is c. 1.2m high and finished with stone. The existing vehicular entrance has timber gates and the piers are finished with render with a natural stone colour. A row of mature trees lines the northern boundary inside the existing brick wall.

## 2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority consisted of:
  - (i) a new pedestrian entrance gate in the existing boundary wall;
  - (ii) the widening and alterations to existing vehicular entrance ;
  - (iii) the addition of a painted railing to the top of the existing front boundary wall off Old Carrickbrack Road.

Other associated works necessary to facilitate the development.

- 2.2. The applicant has submitted an amended design including the removal of the pedestrian access and other associated works, further detailed below in the assessment.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to grant permission with 4 no. conditions of which the following are of note:

C 2- The following requirement of the planning authority shall be strictly adhered to:

- (i) The proposed mild steel painted railings shall be omitted.

- (ii) Gate piers shall not be more than 0.2m higher than the adjacent wing wall or other boundary structure.
- (iii) The height of the proposed timber gate shall be reduced accordingly.
- (iv) The proposed render finish shall be omitted and the wing walls shall be finished with materials similar to the existing.

**Reason:** To protect the visual amenity of the SAAO area.

C 3- The pedestrian gate shall be at a height no greater than that of the existing stone wall and finished with the same timber finish as the proposed timber gate with the vehicular entrance.

**Reason:** To protect the visual amenity of the SAAO area.

C 4- The applicant shall submit a Tree Protection Plan which meets the requirements of BS5837 and which has been prepared by a suitably qualified person. The applicant may need to amend the proposed layout to take the arborist recommendations into consideration. If this is the case revised plans and elevations shall be submitted for the written agreement of the Planning Authority.

**Reason:** To protect the amenity of the SAAO area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission and is summarised below:

- The amendments to the boundary wall should be in accordance with the Howth Special Amenity Area Order (SAAO).
- The proposal will have a significant visual impact on the views of the road.
- The pedestrian entrance is acceptable subject to a revised design.
- The proposed works are in close proximity to a group of mature trees and the applicant should submit a Tree Protection Plan which may require an amended design on foot of this report.

### 3.2.2. Other Technical Reports

Water Services - No objection.

Parks Section - Request the removal of the pedestrian access, alterations to the entrance and inclusion of a Tree Protection Plan.

Transport Planning Section - No objection.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

Three submissions were received, one from adjoining neighbour and one from a resident of Malahide supporting the proposal. The third observation is from a community group objecting to the design of the entrance, railing and second entrance. This submission has been reiterated in an observation to the appeal, as detailed below.

## 4.0 Planning History

None relevant on the site.

## 5.0 Policy Context

### 5.1. Fingal Development Plan 2017-2023

The site is located on lands zoned as RS, **residential**, where it is an objective “*to provide for residential development and to protect and improve residential amenity*”

The site is located within the Howth **Special Amenity Area Order** (SAAO)

**Objective NH44-** Protect and enhance the character, heritage and amenities of the Howth and the Liffey Valley Special Amenity Areas in accordance with the relevant Orders.

**Objective NH46**– Implement the Management Plans and work programmes for the Special Amenity Areas and review them as necessary in consultation with all relevant stakeholders.

**Green Infrastructure Map**- Views Protected along the Old Carrickbrack Road and the Carrickbrack Road.

#### Views and Prospects

- Objective VPO1- protect views and prospects which contribute to the landscape.
- Objective VPO2- Resist development such as houses which would interfere with the view or prospect of special amenity value.
- The site is located within the Coastal Character type.

## 5.2. **Howth Special Amenity Area Order (SAAO)**

A special amenity order was made for the area in 1999 and confirmed by the Minister in 2000. The order removed all exempted development rights from properties located within the area, the subject site, and included design guidance for the siting and design of residential properties as detailed below.

#### Howth SAAO- Factsheet

- Policy 2.1.1 of the SSAO seeks to preserve views from the footpaths, requiring applicants to state whether an impact will be made on a listed view and is so to illustrate the impact.
- Development shall not be permitted where a proposed development would have a significant negative impact on the views from footpaths, nor if it resulted in a significant change to the skyline and rural character of the slopes.

Map B of the Howth SAAO notes the road as having a stone wall.

#### Howth SAAO- Design Guidance for entrances

- The conservation and improvement of existing boundary structures is a primary consideration within the SAAO.

- Where there is an existing boundary structure the wing walls at a new entrance or revised entrance shall not exceed the height of the existing boundary wall or hedge. Otherwise the height of a boundary wall shall not exceed 1.2m.
- Gate piers shall not be more than 0.2m higher than the adjacent wing wall or other boundary structure and shall not have a cross section area greater than 0.8m squared.
- Proposals which involve substantial changes to existing boundaries in order to achieve greater visibility at an entrance will not be permitted by the Council.

### 5.3. **Natural Heritage Designations**

None relevant.

### 5.4. **EIA Screening**

Having regard to the nature and scale of the proposed development, and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental 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**

The grounds of appeal are submitted from the applicant against Condition No. 2 and Condition No. 4 of the grant of permission. The appeal is summarised below:

#### Condition No 2

- An amended design has been submitted reducing the height of the entrance walls by 200mm and the removal of the railings and pedestrian access.
- The terms of condition No 2 have been complied with.
- The previously proposed height of the wall, including the railing, was 1800mm.

- The gate, piers and finish will not unduly impact on the visual amenity or the streetscape.

#### Landscape impact

- The proposed development improves the residential amenity as per the zoning on the site.
- The proposal is compliant with Objective VPO1 and contributes to the character of the area.
- The site is located in the “Coastal Character” which is designated for its high scenic value. The proposal is compliant with those objectives of the development plan relating to this Landscape Character Assessment.
- The existing walls are rendered and the proposal uses render similar to the existing render.

#### Howth Special Amenity Order

- Objective HOWTH 3 and 3.1, 3.2 & 3.3, residential zoning, are applicable to the proposal.
- The alterations to the design, as submitted with the grounds of appeal, will address the concerns raised by the PA and the impact on visual amenity.

#### Condition No 4

- The proposed development does not involve the felling of any trees and therefore the Tree Protection Plan is not required.

#### Pattern of development in the vicinity

- Photographic evidence of entrances along the adjoining road and within the vicinity are submitted to illustrate the variety and type of entrance and finishes.
- The alterations to existing entrance do not have a negative impact.

## **6.2. Applicant Response**

The applicant is the appellant.

### 6.3. Planning Authority Response

A response was received from the PA which as summarised below:

- The site is located within the boundaries of the Howth SAAO.
- Policy 3.1.2 requires boundaries to be either masonry construction and faced and capped with limestone or local stone and not higher than 1.2m where no existing walls exist.
- The design guidance for entrance, in the Howth SAAO is reiterated.
- Condition No 2 as attached to the original grant of permission would ensure the proposal complied with the SAAO document.
- The PA is tasked with implementing this Ministerial Order.
- Condition No 4 was inserted to protect the trees on site during construction.
- The proposal as submitted is unacceptable.
- The conditions as attached to the grant of permission should be attached.

### 6.4. Observations

An observation was received from a member of a community group in the vicinity of the site and the issues raised are summarised as follows:

- The conditions should be upheld.
- The conditions represent the design guidelines in the Howth Special Amenity Area Order (SAAO) which seek to protect the views and prospects and maintain the semi-rural character of the area.
- The guidelines in the SAAO include a restriction on the height of the boundary wall to 1.2m and gate piers shall not be more than 0.2m higher than the adjoining wing wall.
- The views of the sea over the gate are of importance.
- Objective VPO2 requires "*protect views and prospects that contribute to the character of the landscape*"
- The residential amenity would be enhanced if the wing walls were also stone.



## 6.5. Further Responses

None received.

## 7.0 Assessment

7.1. The first party has appealed Condition no.2 and Condition no.4 only and submitted an amended design with the grounds of appeal, removing the pedestrian entrance and redesigning the proposed entrance. I note the Boards discretionary powers under Section 139 of the Planning and Development Act 2000 (as amended), to issue the Planning Authority directions to retain, remove or amend the Condition no.2 and/ or Condition no. 4, although having regard to the facts of the case including a change in design and the information in Condition no 3, discussed below, I consider the assessment 'de novo' by An Bord Pleanála is warranted in this case.

### Condition No 2

7.2. The existing vehicular entrance is via the Old Carrickbrack Road and includes a 3m wide entrance with c. 1.4m high rendered piers. The wing wall, adjoining the entrance piers, is currently rendered and joins onto a c.1.2m high wall, finished with Howth Stone and runs along the majority of the eastern boundary to the front of the site.

7.3. The proposed development, as submitted to the planning authority, included:

- The removal of part of the front wall, Howth Stone section, for a pedestrian access (width 2m),
- Increase in the width of the existing vehicular entrance from 3m to c. 3.7m, new timber gates and increase in the height of the piers from 1.4m to 1.8m, and
- New steel railing on top of the new wing walls beside the altered entrance and the full front section of the front boundary wall including the Howth wall section.

7.4. The report of the Planning Authority (PA) considered the proposal did not comply with the design guidance as presented in the Howth SAAO documents and given the increase in height and length of the new railing it was considered they would have a

significant visual impact on views from the road. The PA considered it necessary to include Condition No 2 as follows :

- The proposed mild steel painted railings shall be omitted.
- Gate piers shall not be more than 0.2m higher than the adjacent wing wall or other boundary structure.
- The height of the proposed timber gate shall be reduced accordingly.
- The proposed render finish shall be omitted and the wing walls shall be finished with materials similar to the existing.

7.5. The applicant has submitted revised drawings with the grounds of appeal as summarised below:

- The removal of the railing on top of the existing stone wall and rendered wall.
- The removal of the pedestrian gate.
- The increase in the gate piers to 2m.
- The increase in the wing wall from 1.1m to 1.6m.

7.6. The response from the PA considered the alterations an improvement, having regard to the removal of the railings and pedestrian entrance, although remained of the view the amended proposal was unacceptable. The Transport Section have no objection to the proposal.

7.7. Policy Objective NH44 of the development plan refers to the need to *“protect and enhance the character, heritage and amenities of the Howth and the Liffey Valley Special Amenity Areas in accordance with the relevant Orders”*. A Ministerial Order for the Howth SAAO, dated 2000, provides design guidance for new entrances where a revised entrance shall not exceed the existing boundary or hedge, or 1.2m in height and gate piers shall not be more than 0.2m higher than the adjacent wing wall. In addition, the order restricts any substantial increase in entrances where the aim is to increase greater visibility. I note both the design guidance and separate, promotion leaflet by Fingal County Council refers to the necessity to protect the landscape, views and prospects.

7.8. The existing entrance gate is c. 3m wide, the amended proposal includes a width of c. 3.7m. The height of the wing wall will increase from c. 1.1m to c. 1.6m and the

piers from c. 1.4m to c. 2m at the highest point. In addition, a slight set back behind the existing entrance is proposed. The railings above the Howth wall and the pedestrian access have been removed in the amended design and the height of the existing wall along the northern boundary will remain at 1.2m. The submitted CGIs illustrates a white render finish on the winds and piers. Upon site inspection I noted a number of entrances and wall finishes to existing dwellings along Old Carrickbrack Road, some of which were finished with white render and I do not consider they detracted from the overall character of the area.

- 7.9. I note the amended design submitted to the Board for consideration, which I do not consider warrants a substantial amendment to the existing entrance configuration with the greatest impact being the height of the entrance gate. Whilst I note it differs from the guidance in the design guidance for the Howth SAAO where the entrance shall not exceed 1.2m in height or 0.2m higher than the adjacent wing wall, I consider the guidance restrictive and each case should be assessed on its individual merits.
- 7.10. The height of the existing pier at 1.4m is currently greater than the design guidance permits and whilst the proposed pier will be 2m in height the wing wall will be 1.6m which is merely 0.2m higher than the existing pier. The grounds of appeal is accompanied by photographs of similar entrances in the vicinity and upon site inspection I noted a range of entrance types many of which had heights similar to the proposal and I do not consider they had a negative visual impact on the surrounding area.
- 7.11. The Green Infrastructure Map of the development plan identifies the views along the north of the site, Old Carrickbrack Road and the south of the site Carrickbrack Road as worthy of protection. I do not consider an increase in height of the entrance gate by 0.7m would detract from those existing views or have a negative impact on the visual amenity in the area. The northern boundary treatment, 1.2m high wall, is substantially retained and any existing views from along the Old Carrickbrack Road will remain.
- 7.12. Therefore, having regard to the pattern of development in the vicinity, the limited scale of works to the entrance, the existing render finish on the piers and wing walls and the alterations submitted with the grounds of appeal, I do not consider the

proposal will have any significant negative impact on the views and prospects on the site or in the surrounding area, does not significantly deviate from the design guidance for the Howth SAAO and I consider it reasonable to remove condition no. 2 from the grant of permission.

### **Condition No 3**

- 7.13. Condition No. 3 required alterations to the height of the pedestrian gate. The amended design submitted with the grounds of appeal removed any proposal for the gate. Having regard to the assessment above and my recommendation to assess the proposal “de novo” I consider there is no longer any necessity for condition no 3 and therefore it is reasonable to remove from any grant of permission.

### **Condition No 4**

- 7.14. A row of mature trees run along the northern boundary on the inside of the existing wall. I consider they add character and value to the site and surrounding area. Condition No. 4 requires the preparation of a Tree Protection Plan in order to protect the amenity of the SAAO area, as specifically detailed below:

*“The applicant shall submit a Tree Protection Plan which meets the requirements of BS5837 and which has been prepared by a suitably qualified person. The applicant may need to amend the proposed layout to take the arborist recommendations into consideration. If this is the case revised plans and elevations shall be submitted for the written agreement of the Planning Authority”*

- 7.15. The grounds of appeal argues that the proposal does not involve the felling of any trees, as the gate walls will be built on a foundation, will not disrupt the roots of trees and therefore a Tree Protection Plan is not deemed necessary.
- 7.16. The response from the PA to the amended design refers to the need to protect any damage from the trees during construction. I note the removal of the pedestrian entrance and the applicant’s assertion that no trees will be removed and I consider the inclusion of Condition No 4 unreasonable. Having regard to the scale of works and the assessment above, I consider a condition requiring the prevention of any damage to the trees during construction sufficient to ensure their protection. Therefore, I recommend an alteration of Condition No 4 requiring the protection of the existing trees on the site during construction.

## **Appropriate Assessment**

- 7.17. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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. Having regard to the nature of the condition the subject of the appeal and based on the reasons and considerations set out below, I recommend the proposal be granted subject to conditions listed below and to **REMOVE** condition no. 2 and condition no.3 and **AMEND** condition No. 4.

## **9.0 Reasons and Considerations**

Having regard to:

- (a) the provisions of the Fingal County Development Plan 2017-2023,
- (b) the design guidance for Howth Special Amenity Area Order,
- (c) the modest scale and design of the alterations to an existing entrance, and
- (d) the pattern of development in the area,

It is considered that the removal of condition no. 2 and condition no. 3 and amendment to condition no. 4 would not have a significant negative impact on the visual or residential amenity of the site or the vicinity or any views or prospects and would, therefore, 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 16<sup>th</sup> day of October 2019 received by An Bord Pleanála, 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. All trees within and on the boundaries of the site shall be retained and maintained. Retained trees shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species.

**Reason:** In the interest of visual amenity

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Karen Hamilton  
Planning Inspector

08<sup>th</sup> of December 2019