



An
Bord
Pleanála

Inspector's Report ABP 306359-20

Development

Permission for a proposed new entrance onto public road and vehicular access to existing dwelling house including all associated site development works.

Location

Ballymadrough, Donabate, Co. Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F19A/0498

Applicant

Audrey Hanley & David Butler

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellants

Audrey Hanley & David Butler

Observer

Thomas Hanley

Date of Site Inspection

12th May 2020

Inspector

Brendan Coyne

1.0 Site Location and Description

- 1.1. The site (0.04 ha) is located on the eastern side of a local road in the townland of Ballymadrough, c. 3 km south-west of Donabate and c. 0.6 km east of the M1/ R132 junction. The site as outlined in red, is narrow and rectangular in shape, with a road frontage width of c.8.5 metre and a length of 66 metres. The site comprises a strip of land linking the adjoining public road with a single storey detached dwelling, adjoining the site to the east. This dwelling is within the applicant's landholding (as outlined in blue) and is currently accessed via a gate and private lane, shared with the dwelling to its south and via a separate access driveway leading off this private lane.
- 1.2. The roadside boundary of the site is defined with a timber post and wire fence. The northern boundary is defined with coniferous hedging and its southern boundary is undefined, forming part of an open field. The ground level of the site is relatively flat. A detached 1.5 storey dwelling is located on adjoining lands to the north. The character of the surrounding area is rural, interspersed with one-off housing and a large garden centre is located on adjacent lands to the west of the site. The speed limit of the local road is 80km/hr.

2.0 Proposed Development

- 2.1. Permission sought for the following;
 - Provision of a new vehicular entrance onto the public road and the construction of a new vehicular access driveway serving an existing dwelling.
 - All associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Fingal County Council refused permission for the proposed development. The 3 no. reasons for refusal were as follows;

1. *Objective DMS126 of the Fingal Development Plan 2017-2023 relates, inter alia, to the need to avoid excessive numbers of individual entrances leading to premature obsolescence onto county/local roads. Development Plan policy is to share vehicular entrances where appropriate and to use existing entrances, avenues and driveways where possible. Existing vehicular access to the subject dwelling is shared with the adjoining dwelling. The proposal to alter this arrangement and develop a new separate entrance would materially contravene the objectives of the Fingal Development Plan 2017-2023 including Objective DMS126 and would therefore be contrary to the proper planning and sustainable development of the area.*
2. *The subject site is zoned 'GB' Greenbelt in the Fingal Development Plan 2017 – 2023, the objective of which is to 'Protect and provide for a greenbelt'. The proposal would involve the development of an additional vehicular entrance on a rural road which already has a proliferation of such entrances. The proposed development would therefore seriously injure the visual amenities of the area and erode the character of this rural area.*
3. *The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the visual and residential amenities of the area and be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Report

Basis for the Planning Authority Decision. Includes:

- New entrances to facilitate access to new rural houses are generally only granted where there is no other possible alternative access route.
- In this application, there is an existing access from the local rural road shared with the existing house belonging to a relative of one of the applicants.

- The proposed development would not comply with Development Plan policy which seeks to share vehicular entrances, where appropriate, in order to avoid a proliferation of access points.
- The proposal would be contrary to Objective DMS126 which refers to avoiding an excessive number of entrances onto local roads.
- The applicants make the case that a new entrance is required in order to facilitate the sale of the neighbouring family home of one of the applicants relatives. Notwithstanding this, it is considered that the existing vehicular access could still be shared and continue to serve both dwellings.
- The proposed development involves the creation of an additional entrance onto a narrow rural road, which already has a proliferation of such entrances.
- The proposal would seriously injure the visual amenities of the area and erode the 'GB' Green Belt zoning of the area.
- If granted, the proposal would set an undesirable precedent for other similar types of development in rural areas.
- The hedgerow fronting onto the public road has been removed and replaced with a post and rail fence. The applicant intends to replant the hedgerow in order to comply with Condition No. 6(b) of P.A. Ref. F14A/0221.
- The current application does not materially differ from the previous application received relating to the proposed development under P.A. Ref. F19A/0214. As such, the proposal does not overcome the reasons for refusal relating to impacts on visual amenity, erosion of the rural character of the area, contravention of Development Plan policies and the creation of an undesirable precedent.

3.2.2. Other Technical Reports

Transportation Planning Section: No objection subject to Conditions.

Water Services Department: No objections.

Irish Water: No objections.

4.0 Relevant Planning History

Subject Site:

P.A. Ref. F19A/0214 Permission **refused** in 2019 to Audrey Hanley & David Butler for a proposed new entrance onto a public road and a vehicular access to an existing dwelling, including all associated site development works. The Reasons for Refusal were as follows;

- 1. Objective DMS126 of the Fingal Development Plan 2017-2023 states to 'Restrict unnecessary new accesses directly off Regional Roads. Ensure premature obsolescence of all county/local roads does not occur by avoiding excessive levels of individual entrances. Ensure that necessary new entrances are designed in accordance with DMRB or DMURS as appropriate, thereby avoiding the creation of traffic hazards.' The proposed development is contrary to the Fingal Development Plan 2017-2023 which states that the sharing of vehicular entrances will be encouraged where appropriate in order to avoid a proliferation of access points. The proposed development materially contravenes the objectives of the Fingal Development Plan 2017 – 2023 in seeking to open up an additional vehicular entrance and would therefore be contrary to the proper planning and sustainable development of the area.*
- 2. The subject site is zoned 'GB' Greenbelt under the Fingal Development Plan 2017-2023, the objective of which is to 'Protect and provide for a Greenbelt'. Objective SS11 is to 'Promote opportunities for the enhancement and protection of biodiversity and natural heritage within the Greenbelt.' The proposed development would see the opening up of an additional entrance on a stretch of rural road that already has a proliferation of such entrances and would result in the removal of 50 metres of existing hedgerow which would not protect the biodiversity and natural heritage within the Greenbelt. The proposed development would therefore seriously injure the biodiversity and visual amenities of the area and erode the Greenbelt zoning that applies to this area.*
- 3. The proposed development which includes the removal of 50 metres of existing hedgerow would set an undesirable precedent for other similar developments,*

which would in themselves and cumulatively be harmful to the biodiversity, visual amenity and rural character of the area and be contrary to the proper planning and sustainable development of the greenbelt area.

P.A. Ref. F13A/0360 Permission **refused** in May 2014 to Audrey Hanley for the construction of a new 4-bedroom, 1.5 storey dwelling with wastewater treatment system, percolation area, new site entrance and associated site works.

The Reasons for Refusal were as follows;

- 1. The applicant has proposed the opening of an additional entrance onto this rural road. The proposed development is contrary to Objective RH22 of the Fingal Development Plan 2011 – 2017 which states ‘Presume against the opening up of a new additional vehicular entrance into the site of any proposed house unless necessary in the interest of safety or because no viable alternative exists’. A viable alternative is possible. The proposed development therefore contravenes materially Objective RH22 of the Fingal Development Plan 2011 – 2017 in seeking to open up an additional vehicular entrance and would therefore be contrary to the proper planning and sustainable development of the area.*
- 2. The subject site is zoned GB under the Fingal Development Plan 2011 – 2017, the objective of which is to “Protect and provide for a Greenbelt”. The proposed development would see the opening up of an additional entrance on a stretch of rural road that already has a proliferation of such entrances. The proposed development would therefore seriously injure the visual amenities of the area and erode the ‘GB’ Green Belt zoning that applies to this area.*
- 3. The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.*

Adjoining Site to the East:

P.A. Ref. F14A/0221 Permission **granted** in September 2014 to Audrey Hanley for the construction of a new 3 bed bungalow with wastewater treatment system and percolation area, adjacent to existing family home with shared roadside vehicular entrance.

Relevant Condition:

No.6(b) *The boundary hedge along the entire frontage as outlined in blue and shown in Drg. No. 1014/14/03 shall be set back four meters from the edge of the road in line with that of adjoining property to the north. This boundary set back shall be carried out prior to commencement of development. The area between the road edge and new boundary setback shall be levelled and grassed to the Area Engineers requirements. A replacement hedgerow of species native to the area shall be provided along the line of the required setback.*

5.0 Policy and Context

5.1. Development Plan

Fingal County Development Plan 2017-2023 is the statutory plan for the area. The following provisions are considered relevant:

Zoning: The site is zoned 'GB - Greenbelt' which has the objective to 'Protect and provide for a Greenbelt'.

Objective DMS126: Restrict unnecessary new accesses directly off Regional Roads. Ensure premature obsolescence of all county/local roads does not occur by avoiding excessive levels of individual entrances. Ensure that necessary new entrances are designed in accordance with DMRB or DMURS as appropriate, thereby avoiding the creation of traffic hazards.

Objective DMS129: Promote road safety measures in conjunction with the relevant stakeholders and avoid the creation of traffic hazards.

Objective RF62: Ensure that the design of entrances and front boundary treatment is sensitive to the rural setting. In this regard, block walls and ornamental features will be discouraged and native hedging will be utilised where appropriate.

Objective RF63: Ensure the retention of hedgerows and other distinctive boundary treatments in rural areas. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary/provision of agreed species of similar length will be required within the site.

Objective NH27: Protect existing woodlands, trees and hedgerows which are of amenity or biodiversity value and/or contribute to landscape character and ensure that proper provision is made for their protection and management.

Objective SS09: Promote development within the Greenbelts which has a demonstrated need for such a location, and which protects and promotes the permanency of the Greenbelt, and the open and rural character of the area.

Objective SS11: Promote opportunities for the enhancement and protection of biodiversity and natural heritage within the Greenbelt.

DMS79: Require the use of native planting where appropriate in new developments in consultation with the Council.

5.2. Other Relevant Government Guidelines

Design Manual for Roads and Bridges (2011)

Design Manual for Urban Roads and Streets (2019)

5.3. Natural Heritage Designations

- 5.3.1. The site is located c. 2.2 km to the south of the Rogerstown Estuary SPA (site code: 004015) and SAC (site code: 000208). The site is also located 1.3km to the north of the Malahide Estuary SPA (site code: 004025) and SAC (site code: 00205).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal was received from Environmental Heritage Planning Services representing the applicants Audrey Hanley & David Butler, against the decision made by the Planning Authority to refuse permission for the proposed new vehicular entrance and driveway. The grounds of appeal can be summarised as follows:

- The appellants were granted permission for a new detached dwelling under P.A. Ref. F14A/0221. This dwelling takes its entrance off an existing laneway, and shared vehicular entrance of the public road. The applicant Audrey Hanley's father is in the process of selling the adjoining dwelling. The Applicants require a new vehicular entrance and driveway as the impending sale of the adjoining dwelling will result in the revocation of the existing right of way agreement.
- The terms and provisions of the sale and transfer of legal ownership and entitlement are beyond the Appellant's control.
- The new entrance will provide the Appellants with privacy and direct access to their property.
- The proposal would replace their existing access arrangements.
- The proposed new entrance will be incorporated into the newly planted and realigned western boundary hedge, behind a new 1.1m high timber post and rail fence that has been set back 4m from the public road.
- The proposed new entrance will provide visibility splays and sightlines in excess of the 50m x 3m requirements of the Design Manual for Roads & Bridges (DMRB).
- The new entrance will comprise a 1.2m high plastered and capped concrete block wing walls, piers and inward opening metal gates set back 6m from the edge of the carriageway to allow off-road vehicles to queue. This requirement was referenced in Condition 6(c) of P.A. Ref. F14A/0221.
- New native hedgerow will complement the extent and diversity of existing established hedgerows in the area.

- The area surrounding the site is characterised by 16 no. detached dwellings, the majority of which are served with individual entrances. The proposal would increase the number of entrances by only 1 no. entrance.
- The provision of a new low key, visually inconspicuous entrance would not detract from the character or visual amenity of the surrounding Greenbelt / rural area.
- The Council's Transportation Section outlined no objections to the proposed development.
- The proposal will not facilitate any increase in existing traffic levels.
- The provision of sightlines and vision splays in excess of design requirements will result in a safe entrance which will not pose a hazard or source of congestion to other road users.
- The proposal is compliant with Objectives DMS126, DMS129 and SS09 of the Development Plan.
- The proposed development will not physically or visually dominate the local road as it would only be fully visible from the public domain when standing directly in front of it.
- The narrow width and heavy boundary vegetation would provide adequate screening.
- The Council's assessment fails to demonstrate how a replacement vehicular entrance and driveway would adversely affect the integrity of the 'GB' Greenbelt zoning and the rural character and visual amenities of the area.
- The western roadside boundary has been setback and planted with a mixed native hedgerow species in compliance with Condition 6(b) of P.A. Ref. F14A/0221 which granted consent for the Appellant's dwelling and in direct response to a Warning Letter issued under Enforcement Ref. 19/173A.
- The roadside boundary's setback and replanted native hedgerow is substantially complete.
- The proposed development presents only a minimal intervention into the new boundary treatment.

- The Planning Authority's second reason for refusal is invalid and the proposed development is fully in compliance with Objectives SS11 and DMS79 of the Development Plan.
- In order to allay concerns regarding impact on the 'GB' Greenbelt zoning, An Bord Pleanála may wish to impose a Condition on a grant of permission requiring the removal of the existing driveway and vehicular entrance and the restoration of the field upon the completion of the proposed development. The proposal, therefore, would not represent an increase in physical construction within the Greenbelt.
- The proposed development will enhance rather than injure local biodiversity. The new hedgerow running parallel to the proposed new driveway will enhance biodiversity.
- Reference made to 2 no. recent planning applications in the vicinity whereby permission was granted for residential dwellings with separate entrances onto the public road. In both cases, the Planning Authority outlined no objections to these new dwellings served with separate vehicular entrances.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response is summarised as follows;

- The proposal involves the development of an additional entrance on this narrow rural road which already has a proliferation of such entrances.
- It is considered that the proposal would seriously injure the visual amenities of the area, would erode the "GB" Green Belt zoning of the area, and if granted would set an undesirable precedent for other similar type developments in rural areas.
- It is Development Plan policy to share vehicular entrances, where appropriate, in order to avoid a proliferation of access points. The proposed development would not comply with this policy or Objective DMS126 of the Development Plan which also refers to avoiding excessive number of entrances onto local roads.
- Although a case is made that the proposed development of a new entrance to serve the existing dwelling is required to facilitate the sale of the family home of

one of the applicants, it is considered that the existing vehicular access could continue to be shared and serve both dwellings.

6.3. Observations

6.3.1. A letter of observation was received from Thomas Hanley of Ballymadrough, Donabate, who states that he is the father of Audrey Hanley and resides at the dwelling immediately adjacent the Appellant's dwelling. Issues raised are summarised as follows;

- Thomas Hanley is in the process of selling his property and he fully supports his daughter and son-in-law's proposal to construct a new separate vehicular entrance and driveway.
- A new entrance and driveway serving their own property will allow them a discrete and private entrance similar to many other houses in the vicinity and they will no longer be beholden to the private right of way that will be under the control of the property's new owners.
- The remainder of the observation is a copy of the issues raised in Grounds of Appeal report received from Environmental Heritage Planning Services on behalf of the applicants (as detailed in Section 6.1 above).

7.0 Assessment

The main issues for consideration are those referred to in the 3 no. reasons for refusal as cited by the Planning Authority. These can be addressed under the following heading;

- Proliferation of Entrances

This is addressed below.

7.1. Proliferation of Entrances

7.1.1. The applicants Audrey Hanley & David Butler are seeking permission for the provision of a new vehicular entrance and driveway from the public road, to serve their dwelling.

Their dwelling is currently accessed via a gate and private lane, shared with the dwelling to its south and via a separate access driveway leading off this private lane. The dwelling to the south is currently owned by Thomas Hanley, the father of the applicant Audrey Hanley. The applicants put forward that they are seeking permission for the proposed new vehicular access and driveway by reason that;

- Thomas Hanley is in the process of selling his property.
- The Applicants requires a new vehicular entrance and driveway as the impending sale of the adjoining dwelling will result in the revocation of the existing right of way agreement.
- The terms and provisions of the sale and transfer of legal ownership and entitlement are beyond the Applicant's control.
- The proposed new entrance and driveway will provide the Applicants with a direct and private access to their property.
- The Applicants will no longer be beholden to the private right of way that will be under the control of the property's new owners.
- The proposal would replace their existing access arrangements.

7.1.2. The Planning Authority refused permission for the provision of a new vehicular entrance and driveway on the ground that;

- The subject dwelling is served by a vehicular entrance, shared with an adjacent dwelling. The provision of a separate new entrance would be contrary to Objective DMS126 of the Fingal Development Plan 2017-2023.
- The proposal would involve the development of an additional vehicular entrance on a rural road which already has a proliferation of such entrances.
- The proposed development would seriously injure the visual amenity and erode the character of this rural area.
- The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the visual and residential amenities of the area

7.1.3. Objective DMS126 of the Development Plan seeks to;

- Restrict unnecessary new accesses directly off Regional Roads.
- Ensure premature obsolescence of all county/local roads does not occur by avoiding excessive levels of individual entrances.
- Ensure that necessary new entrances are designed in accordance with DMRB or DMURS as appropriate, thereby avoiding the creation of traffic hazards.

7.1.4. The Transportation Section report outlines no objections to the proposed development, subject to standard Conditions. The report states that required sightlines are achievable from the proposed access as a result of the existing boundary setbacks either side of the proposed new entrance.

7.1.5. The proposed new entrance is located at the northern end of an open field. The new driveway would extend for a length of c. 65 metres. The vehicular entrance gate would be 4 metres wide and would be defined with 1.2m high plaster block wing walls and 2 no. piers to either side. Drawings submitted show that gates would open inwards. Proposed works include the planting of native hedgerow along the southern boundary of the proposed new driveway. The materials of the proposed new driveway are stated as comprising free-draining fine graded natural gravel material.

7.1.6. Having reviewed the drawings submitted, it is my view that the layout and design of the proposed new vehicular entrance and driveway would not detract from the character or visual amenity of the surrounding 'GB' zoned lands. The existing and proposed new hedging either side of the driveway would screen the proposal from the surrounding area. Native hedging would be planted in accordance with the requirements of Objective RF62 of the Development Plan. Such hedging would promote opportunity for the enhancement and protection of biodiversity and natural heritage in the Greenbelt, in accordance with Objective SS11 of the Development Plan. The location of the proposed new driveway at the northern end of the field, would minimise its intrusion in the open field, in which it is located.

7.1.7. The proposed new vehicular entrance would be accessed of a local rural road. I consider therefore the proposal would not be contrary to Objective SDS126 which seeks to restrict unnecessary new accesses directly off regional roads. Having regard to the Grounds of Appeal, it is my view that the applicants have established a reasonable justification for the proposed new vehicular entrance and driveway. In an attempt to alleviate concerns regarding the impact of the proposal on the 'GB'

Greenbelt zoned lands in which it is located, the applicants propose to the Board that a Condition be imposed requiring the removal of the existing driveway and vehicular entrance and the restoration of the field, upon the completion of the proposed development. The Applicants put forward that such measures would ensure the proposed development does not represent an increase in physical construction within the Greenbelt. I consider that such a Condition would remediate the field of the existing driveway to its original condition and thereby prevent a cumulative impact of development works.

- 7.1.8. In conclusion, it is my view that the proposed new vehicular entrance and driveway would not detract from the character and visual amenity of the surrounding rural landscape and would not cause undesirable precedent for similar development. The proposal would be in accordance with relevant Development Plan policies and objectives and would not create a traffic hazard.
- 7.1.9. I recommend, therefore, that the appeal should succeed in relation to the Planning Authority's reasons for refusal for the provision of a new vehicular entrance and driveway, serving the applicants dwelling.

7.2. Screening for Appropriate Assessment

- 7.2.1. Having regard to the nature and scale of the proposed development, which relates to the provision of a vehicular entrance and driveway at a location that is not in close proximity of a Natura 2000 site, I am satisfied that 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 'GB' zoning of the site and the nature and use of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposal would not seriously injure the amenities of the area, result in a traffic hazard, or conflict with the objectives of the Development Plan. The proposed development would, therefore, be in accordance with the proper planning and

sustainable development of the area. I recommend that permission should be granted subject to the Conditions set out below.

9.0 Conditions

<p>1.</p>	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.</p> <p>Reason: In the interest of clarity.</p>
<p>2.</p>	<p>(i) No development of any form including planting, fencing or wing walls shall exist within the area required to provide visibility from the site entrance point.</p> <p>(ii) All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location adjacent to the new boundary at the developer's expense.</p> <p>(iii) All the above works shall be carried out at the developer's expense according to the Specifications and Conditions of Fingal County Council.</p> <p>Reason: In the interest of traffic safety and to protect the amenity of the area.</p>
<p>3.</p>	<p>Within 3 months of the completion of the new vehicular entrance and driveway, the existing vehicular entrance and driveway serving the applicants dwelling shall be removed and the ground and entranceway of these restored to their original condition.</p>

	Reason: In the interest of visual and rural amenity.
4.	All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works. Reason: To protect the amenities of the area.
5.	Drainage arrangements, for 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.

Brendan Coyne
Planning Inspector

13th May 2020