



An
Bord
Pleanála

Inspector's Report ABP308166-20

Development	Retain a wall, fence and gate.
Location	Ard na Mara, Ardbrough Road, Dalkey, County Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D20A/0448
Applicant(s)	Glen Finnegan.
Type of Application	Permission
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Glen Finnegan.
Observer(s)	None.
Date of Site Inspection	15 th March 2021.
Inspector	Hugh Mannion.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision – refuse permission.	3
3.2. Planning Authority Reports	3
4.0 Planning History.....	4
5.0 Policy and Context.....	4
5.1. Development Plan.....	4
5.2. Natural Heritage Designations	5
5.3. EIA Screening	5
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.2. Planning Authority Response	6
6.3. Observations	6
6.4. Further Responses.....	6
7.0 Assessment	6
8.0 Recommendation.....	8
9.0 Reasons and Considerations.....	9

1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.2ha and comprised a long rectangle stretching to the northeast from the site boundary on Ardbrough Road, Dalkey, County Dublin. To the south on the opposite side of Ardbrough Road is Dalkey Hill and to the southwest is Killiney Hill. There is a permitted house on site positioned below road level as the site levels drop sharply to the north from Ardbrough Road. The boundary stone wall is topped with 'fin' railings which has been back planted (possibly with beech) and there is a pedestrian and vehicular gate.

2.0 Proposed Development

- 2.1. Retain a wall, fence and gates which are higher than that permitted under planning reference D15A/0240 at Ard Na Mara, Ardbrough Road, Dalkey, County Dublin.

3.0 Planning Authority Decision

3.1. Decision – refuse permission.

The proposed wall and railings are 1.9m high and would be contrary to policy LBH6 which seeks to protect views or prospects of special amenity value thereby negatively impacting on the visual amenity of the area and be contrary to the Dun Laoghaire County Development Plan. The proposed development would also be contrary to section 8.2.4.9 in relation vehicular entrances and hard standing areas.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended refusal as set out in the county manager's order.

3.2.2. Other Technical Reports

Drainage Planning Section reported no objections.

4.0 Planning History

D19A/0959 permission was refused for erection of a gateway and fence higher than that permitted under D15A/0240 at Ard Na Mara, Ardburgh Road, Dalkey, County Dublin. (ABP306889-20 and ABP306886-20 were invalid appeals in relation to this application).

D15A/0240 permission was granted for an amended house previously permitted under reference D13A/0172.

5.0 Policy and Context

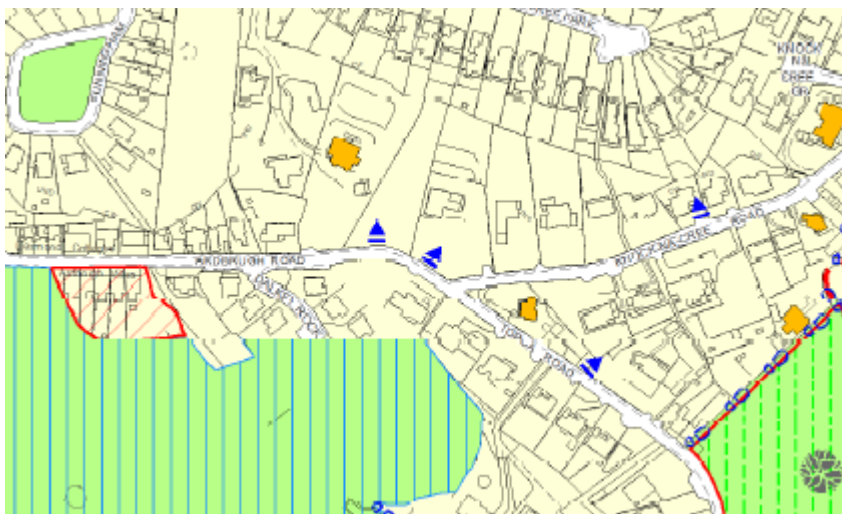
5.1. Development Plan

5.2. The site is zoned A to protect and/or improve residential amenity in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

5.3. Policy objective LHB6 of the plan is;

It is Council policy to protect and encourage the enjoyment of views and prospects of special amenity value or special interests.

The County Development Plan lists prospects to be protected and illustrates the views to be protected on the zoning maps for the particular area. The application site is marked as having a view/prospect from Ardburgh Road towards Dublin bay to the north (extract below).



5.4. Natural Heritage Designations

Not relevant.

5.5. EIA Screening

Having regard to the nature of development proposed for retention I consider that it is not within a class for the purposes of EIA and that the requirements for submission of an EIAR may be set aside at preliminary consideration stage.

6.0 The Appeal

6.1. Grounds of Appeal

- The original permitted development comprised the reuse of an existing stone wall 1.2m high to which an additional 0.4m would be added for a total solid wall of 1.6m high. The constructed fence (wall and fencing) is 1.9m high. A section is proposed to be lower at 1.5m. There is no right to views over private property.
- The vehicular entrance has been stepped back to improve road safety for entering/exiting the site.
- The visibility splay was also widened to increase sightlines in the interests of road safety. The planning authority's roads department have no objection to this element of the proposed development.
- The views from Ardburgh Road are not listed in table 4.1.1 of the development plan. The burden placed on individual private property to accommodate views or prospects is unreasonable. The planning authority is inconsistent in its protection of these views and prospects and hedges in the area impede views.
- The railings are not visually dominant, nor do they negatively impact on the streetscape.
- There is a variety of boundary treatments in the area.

6.2. Planning Authority Response

- The appeal does not raise issues which would justify a change of mind by the planning authority.

6.3. Observations

- None.

6.4. Further Responses

None.

7.0 Assessment

7.1. Background.

- 7.2. Under D13A/0172 permission was granted on this site to Glen Finnegan for a house and vehicular entrance onto the public road. Condition 2 required that the footpath at the new vehicular entrance should be dished and strengthened to the satisfaction of the planning authority. Condition number 3 required that the reconstructed natural stone front boundary wall shall be a maximum of 1.2m high to provide adequate visibility for pedestrians on the public footpath of vehicles exiting from the new vehicular entrance.
- 7.3. The house and entrance were not constructed in accordance with the permission and under reference D13A/0172 and a further application was made under D15A/0242 to amend the previous permission. The planning authority granted permission subject to compliance with the conditions of reference D13A/0172 and two further conditions requiring the front boundary wall shall be limited to 1.2m high that the vehicular entrance would be dished and strengthened to the satisfaction of the planning authority.
- 7.4. The development was not carried out in accordance with the permission and a further application was made under reference D19A/0959 for the retention of a fence and gate which were higher than those originally permitted under D15A/0240. That permission was refused for being contrary to objective LBH6 in relation to the protection of views and prospects of special amenity value and section 8.2.4.9 of the

County Development Plan in relation to vehicular entrances. In 2018 and 2019 the planning authority opened enforcement cases in relation to the site.

7.5. Views and Prospects.

- 7.6. The current County Development Plan (policy LHB6: Views and Prospects) sets out Council policy to protect and encourage the enjoyment of views and prospects of special amenity value or special interest. The implementation of this policy is to be achieved by (a) preventing development which would block or otherwise interfere with a view which is designated for protection and (b) preserving the prospects listed in the plan. The prospects are listed in table 4.1.1 of the plan while the views are illustrated on the maps appended to the plan.
- 7.7. The application site is mapped on map 4 of the plan and there is an arrow/pointer indicating a view to be preserved from Ardburgh Road over the site north towards Dublin bay. The previous County Development Plan (2010-216) under which the original permission for development of the site was granted included the same view from Ardburgh Road across the site and illustrated it on map 4 attached to that Plan. I conclude, therefore, that an applicant could have made himself aware of a constraint on the site and it may be noted that section 10(2)(e) of the Planning and Development Acts 2000-2020 provides a statutory basis for the preservation of views and prospects in County Development Plans where in the opinion of the planning authority such preservation is in the interests of the proper planning and sustainable development of the area.
- 7.8. The views from Ardburgh Road are within a context and part of an ensemble of open spaces that include the zoned high amenity areas south and southwest of the application site on Dalkey Hill and Killiney Hill. The applicant makes a fair point that there is a variety of boundary treatments along Ardburgh Road and that in some cases roadside walls are augmented by back planting which increases the screening effect along the road. The key difference in the present case is that the site is subject to a constraint (the view to be protected) which has been in place for at least a decade. The type of fence chosen severely limits the enjoyment of the protected view because the fins when viewed from the public road operate to obscure the view except when the viewer is looking directly through these fins. The fence has also been back-planted (I think with beech hedging). The combined height of the wall

and fence at 1.9m effectively enclose the public road at a point where it is an objective of the County Development Plan to provide a relatively open aspect.

7.9. On this basis I conclude that the proposed development does materially contravene an objective in the County Development Plan, and I recommend refusal on that basis.

7.10. **Traffic Safety**

7.11. The second aspect of the application is the retention of the entrance as constructed which differs from the one permitted under D15A/0242 which was a splayed entrance. The planning authority's planner's report makes a point that the application for retention may not refer to the amended vehicular entrance. I consider that the reference to retention of a gate and the illustration of the existing arrangements on the submitted drawings allow for the inclusion of the amended vehicular gate within the application notified to the public. Section 8.2.4.9 of the County Development Plan provided, *inter alia*, that piers, gates and railings shall be finished to harmonise with the colour, texture and height of these features in the existing streetscape. The applicant points to the variety of these features in the immediate area.

7.12. There is no objection on traffic grounds to the amended vehicular entrance however the same issue arises as with the adjoining fence. The gate is too high and fitted with fins and a solid backing material which obscures the protected view in a manner so as to materially contravene an objective expressed in the County Development Plan and illustrated on the attached maps.

7.13. **Appropriate Assessment.**

7.14. Having regard to nature of the proposed development and the absence of any emissions therefrom I conclude 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. I recommend refusal.

9.0 Reasons and Considerations

- 9.1. It is an objective of the Dun Laoghaire Rathdown County Development Plan 2016 to 2022 to protect views and prospects of special amenity value or special interests. The County Development Plan illustrates the protected views on the maps attached to the plan and one such view is illustrated looking north from Ardburgh Road over the application site towards Dublin bay. The height, materials and design of the boundary wall, fence and vehicular gates combine to obscure the protected view in a manner that materially contravenes an objective set out in the County Development Plan and the proposed development is, therefore, contrary to the proper planning and sustainable development of the area.

Hugh Mannion
Senior Planning Inspector

16th March 2021.