



An
Bord
Pleanála

Inspector's Report ABP-309762-21.

Development	Retention of hard landscaping including steps and ramp and reconfigured vehicular entrance plus additional works.
Location	12 Asgard Road, Howth County Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F20A/0681.
Applicants	Noel Crowley & Ger O'Sullivan.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	First Party
Appellants	Noel Crowley & Ger O'Sullivan.
Observer	None.
Date of Site Inspection	16 th May 2021.
Inspector	Philip Davis.

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1.0 Introduction

This appeal (under S.139) is by the applicant against a number of conditions set with a planning permission for the retention works to the front of a dwelling in Howth. This recently reconstructed dwelling was built following an ABP decision in May 2017 (**PL06F.248057**) and the retention relates to works carried out that were not in accordance with this permission. The applicant is seeking the omission of a number of conditions relating to minor alterations to the retention works and standard conditions relating to drainage and services.

2.0 Site Location and Description

2.1. Asgard Road, Howth

Asgard Road is a cul-de-sac development just north of Howth Village, running west from Thormanby Road, the main road running from the Summit of Howth down to the village and harbour. Asgard Road serves about 20 detached dwellings dating from the latter half of the 20th Century. It is on a steep north facing slope, and most of the dwellings on either side of the road have fine views to the north over the village and harbour. The houses on the south side, including the appeal site, are generally on cuttings into the hillside at a distinct level above the road, and have sloping front gardens. They are mostly 2-storey gable fronted designs although some recent rebuilds have been in a more contemporary style.

2.2. 12 Asgard Road

The appeal site is newly constructed dwelling on the south side of Asgard Road, facing north. The total site area of the site is given as 0.073 hectares, with the house being 238 m² in floorspace. Similar dwellings adjoin on either side.

3.0 Proposed Development

The proposed development is described on the site notice as consisting of:

*Retention of hard landscaping to front garden, including steps and ramp;
reconfigured vehicular entrance to front, ground floor terrace infill to north
elevation (5 sqm additional accommodation); ground floor window to west*

elevation, ground floor utility and storage spaces below rear terrace (26 sqm additional accommodation); hard landscaping to rear garden and all associated works.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 4 generally standard conditions.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- A number of deviations from the original works granted permission are noted, the works that require retention are considered to be acceptable in terms of residential amenity.
- It is stated that the driveway exceeds 4 metres in width and would need to be reduced by relocating the eastern pier and the front boundary walls should not exceed a height of 900mm – it is recommended that this can be set by condition.
- The applicant is to be requested to increase the length of hedge.
- Noted that the Water and Drainage section had no objections.
- Permission recommended subject to conditions.

4.2.2. Other Technical Reports

Transport section: No objections subject to conditions.

Water Services: No objection subject to standard conditions.

Parks and green infrastructure: Additional information requested.

4.3. Prescribed Bodies

None on file.

4.4. **Third Party Observations**

A number of observations were submitted, all objecting to the proposed development for a number of reasons, including arguments that not all deviations from the planning permission are included in the retention application, overlooking, and loss of privacy, plus the scale of the new entrance.

5.0 **Planning History**

The planning report notes a previous permission for the demolition of the existing bungalow and its replacement with a new 2 storey dwelling (**F16/0435**). This was appealed to the Board and (overturning the recommendation of the Inspector), it was granted permission subject to conditions on the 19th May 2017 (**PL06F.248057**). These works were carried out and deviations from this permission are subject to this retention application.

Two recent applications for retention of works on the site (**F20A/0656** and **F20A/0104**) were withdrawn.

6.0 **Policy Context**

6.1. **Development Plan**

The site is in an area zoned RS '*Provide for residential development and protect and improve residential amenity*' in the Fingal County Development Plan 2017.

6.2. **EIAR**

Having regard to the nature of the proposed development and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

6.3. Natural Heritage Designations (AA Screening)

There are no designated EU habitats in the vicinity of the site. There are a number of littoral and marine designated habitats within around 1km of the site around the coast of Howth, the closest are Baldoyle Bay SAC site code 000199 and Howth Head SAC, site code 000202. The latter includes habitats typical of dry heath and coastal cliffs.

The Howth Head area is therefore part of a matrix of habitats including dry heath and a wide variety of cliff, coastal and littoral habitats, with the conservation objectives focusing on the habitats and individual species associated with these habitats. But the site is within a long established suburban area with no remaining habitats associated with the qualifying interests (although it was probably originally dry heath), and the site is connected with the foul and drainage system of the village of Howth. There would therefore be no direct impacts on any conservation objectives and there are no pathways of pollution for indirect or other impacts.

I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 000202 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.0 The Appeal

7.1. Grounds of Appeal

The applicant accepts the decision to grant permission, but appeals conditions no. 2(a)(b) and (c), condition no. 3(a)(b) and (c) and Condition 4(b)

Condition 2:

The applicant shall, within 6 months from the date of the grant of permission, undertake the following amendments to the front garden of the subject dwelling:

- a) **Reduce the width of the vehicular drive by moving the eastern pier in a westerly direction so that the entrance does not exceed 4m in width;**
 - b) **reduce the height of the boundary wall so that it does not exceed 900mm in height;**
 - c) **increase the length of the hedge which is located on part of the eastern boundary so that it runs the entire length of the front eastern boundary of the subject site.**
- It is stated that the width of the existing driveway has been incorrectly annotated as 5.320 metres on application drawings, but the correct width is some 4.4 metres. It is argued that this is suitable and a reduction of 400mm is not warranted. A revised plan showing the 'correct' width is attached.
 - It is argued that the height of the boundary wall does not exceed 900mm when viewed from Asgard Road or adjoining dwellings, so it is argued that a reduction is not necessary.
 - It is argued that there are precedents for dwellings in the area not having a front hedge.

Condition 3:

The applicant shall comply with the following requirements of the Planning Authority:

- a) **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 developers expense.**
 - b) **No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm; which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.**
 - c) **The footpath and kerb shall be dished at the developer's expense to the satisfaction of the planning authority.**
- It is argued that there are currently no services that need relocation.

- It is argued that the front boundary is consistent with the established pattern of development. It is argued that a reduction in height of the pier would result in an inconsistent streetscape.
- It is noted that the kerb is already dished.

Condition 4

The applicant shall comply with the following requirements of the Planning Authority:

C) The soakaway to the rear shall be increased in size to accommodate any additional impermeable run off areas. The soakaway shall comply with BRE Digest 365, the GDSDS, designed to accommodate the 30 year critical duration storm event, include for climate change, use local rainfall data, and be at least 5 mm from any structure and 3m from any boundary.

- It is stated that there is no soakaway to the rear of the site – the soakaway is to the front – technical details attached with the submission.

7.2. Planning Authority Response

- The proposal was assessed against the policies and objectives of the Fingal Development Plan 2017-2023 and guidelines, as well as its impact on adjoining neighbours and the character of the area.
- It is stated that with regard to the condition on vehicular access, this decision was made in the interest of pedestrian safety and consistent with other decisions made in the Fingal Area, i.e. that all driveways should not exceed 4 metres in width where it meets a footpath.
- The Board is requested to uphold all the conditions appealed.

8.0 Assessment

This appeal is restricted to a number of conditions set by the planning authority. I am satisfied that is satisfied, having regard to the small scale and nature of development, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted. I therefore will confine my assessment to the specific issues raised in the appeal.

The planning authority set a number of conditions, those that are appealed are as follows:

Condition 2:

The applicant shall, within 6 months from the date of the grant of permission, undertake the following amendments to the front garden of the subject dwelling:

- a) Reduce the width of the vehicular drive by moving the eastern pier in a westerly direction so that the entrance does not exceed 4m in width;**
- b) reduce the height of the boundary wall so that it does not exceed 900mm in height;**
- c) increase the length of the hedge which is located on part of the eastern boundary so that it runs the entire length of the front eastern boundary of the subject site.**

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I would note that several of these are standard conditions to many such developments and are to some extent replications of the original permission for the works. The primary aim of the appellant appears to be to request the removal of any condition which could lead to the need for possible alterations to the finalised works – a not unreasonable aim given the potential costs involved. I am therefore assessing these within the context of whether the works as they have been completed are acceptable or whether elements should be altered or reassessed in the context of the concerns outlined in the planning report.

As the Board will note from the photographs attached, the applicant has paved the front garden entirely, with some hedge planting on raised planters along the western side of the site. There is no gate in place, with room for at least 3 cars on what was the front garden, and a very wide entrance. The general finish of surfaces is to a reasonably high quality.

Condition 2:

The applicant has argued that this was based on faulty figures in the initial application documents, and that the real width is 4.4 metres. It is also argued that the piers are not in excess of the levels requested by the planning authority and transportation division.

I measured the gate on my site visit and they appear to be around 4.5 metres apart. This is significantly more than the minimum set out in Development Plan standards and is noticeably larger than most along the cul-de-sac. The dwelling is at the end

of a cul-de-sac with no through traffic and so it appears very excessive to insist on sight lines more appropriate to a conventional suburban area. I also note that the elevated nature of the driveway ensures reasonably good visibility for any car exiting and for any pedestrian on the road. It is arguably a little unsightly to have such a side entrance, but it is not clear to me that requesting it be brought in by 0.5 metres or so would make a significant difference.

The planning authority has also requested a hedge for the full length – at present it runs only along the boundary with no planting along the front. I note that condition 5 of the last Board decision (**PL06F.248057**) for the new dwelling stated that provision be made for a hedge to the west of the site.

While it is questionable as to whether there is a hazard at this point due to the very quiet nature of the cul-de-sac, the use of such a wide entrance on a narrow site sets an undesirable precedent for this type of access. I consider the condition to be reasonable in the circumstances and do not recommend that the Board delete, replace or alter it.

Condition 3

This is a standard condition, although there was no similar condition set in the previous Board decision for the overall works. The site is accessed via what appears to be a standard dished kerb and the overall access is acceptable as I noted above. I consider this condition to be unnecessary as there are no visible obstructions and the existing dishing has been done to what appears to be an acceptable standard, so I recommend that it be deleted.

Condition 4.

It is unclear as to why this condition was attached by the planning authority as it does not appear to relate to the positioning of the soakaway on the lands. I note that condition 7 of the previous permission granted by the Board sets the requirement for all drainage details to be agreed with the planning authority. I would recommend restating this condition for clarity by replacing condition 4 with a standard requirement for drainage to be agreed.

9.0 Recommendation

I recommend that the Board, in accordance with its powers under S139 of the 2000 Act, as amended, direct the planning authority to:

Delete Condition no.3.

Replace condition no. 4 with the following wording:

Within 2 months of the date of this notice, the applicant shall submit revised plans for the agreement of the planning authority for all drainage arrangements for the site. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

I do not recommend that Condition 2 be altered, replaced or deleted.

Philip Davis

Planning Inspector

17th May 2021