



An
Bord
Pleanála

Inspector's Report

ABP-311224-21

Development	Permission for the construction of a new entrance gateway, including piers and steel gates, and all associated site works.
Location	St. Catherine's Provincial House, Dunardagh, Blackrock, Co. Dublin A94 P2K3.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21A/0525
Applicant(s)	Dunardagh Holdings CLG
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Dunardagh Holdings CLG
Observer(s)	None
Date of Site Inspection	29 th November 2021

Inspector

Emer Doyle

1.0 Site Location and Description

- 1.1. The application site has a stated area of 4.8 hectares and is located in Dunardagh, Blackrock and comprises of St. Catherine's Provincial House and formal gardens. The subject site is a protected structure, RPS No. 756. The development site forms a part of a site which was identified having development potential in the Blackrock Local Area Plan.
- 1.2. The main access to the site is via a long access which is located off Temple Hill. St. Catherine's is the Provincial House of the Daughter's of Charity and together with Labourne Care Home, also located on this site, provides supported living accommodation to many elderly and infirm sisters. The site is located adjacent to Rockfield Park.

2.0 Proposed Development

- 2.1.1. Permission is sought to construct a pair of 1.8m high automated gates together with a pedestrian gate at this location.

3.0 Planning Authority Decision

3.1. Decision

Permission refused for one reason as follows:

The proposed development would materially contravene Objectives DS13, DS14, DS16, RP1, RP2, and RP3 of the Blackrock Local Area Plan, 2015-2021 and Policy ST5: Walking and Cycling of the Dun Laoghaire Rathdown County Development Plan, 2016-2022. It would impede access to Rockfield Park, and would restrict permeability through the overall site. It would be in conflict with Objectives of the Blackrock Local Area Plan, 2015-2021 and the Dun Laoghaire Rathdown County Development Plan, 2016-2022. The proposed development would therefore seriously injure amenity in the area and is therefore contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's report noted that the approved SHD application on the adjacent site included access to Rockfield. However, it has due regard for the Blackrock LAP and the Site Framework Strategy for St. Teresa's and Dunardagh and considered that this proposal would block off a potential main entrance into Rockfield Park as shown on Drawing 2: Site Framework Strategy of the Blackrock LAP.
- It noted that the applicant's were amenable to a potential time limiting condition, it did not agree with this having regard to the policies and objectives of the Blackrock Local Area Plan and Dun Laoghaire Rathdown County Development Plan.

3.2.2. Other Technical Reports

Conservation Officer: Noted that the subject site was a Protected Structure, RPS No. 756. Noted that the location of the proposed new entrance gateway could have implications for the long-term objective of the Planning Authority, which seeks the relocation of the original entrance gates as set out in Objective DS13. No objection in principle to the proposed development but there is a need to ensure that if permitted, it does not prejudice any of the long term objectives of the Blackrock LAP.

Transport: No objection subject to condition.

3.3. Prescribed Bodies

3.3.1. No reports.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

5.0 Relevant Planning History as follows:

PA D18A/0854

Similar application refused at this location by Planning Authority.

PA Ref. 2109

Certificate of Exemption granted by Planning Authority for the creation of an opening in the existing boundary wall between St. Catherine's and Newtown Park for disabled access gate way.

ABP 303804

Permission granted for a strategic housing development of 291 units at St. Teresa's House and St. Teresa's Lodge on adjacent site.

6.0 Policy Context

6.1. Development Plan

Dun Laoghaire Rathdown Development Plan

The subject site is in an institutional zone where the objective is 'to protect and/or provide for institutional use in open lands.'

The site is zoned as objective A- Residential.

Part of the driveway is zoned as F- Open Space.

Relevant policies include the following:

ST5- Walking and Cycling- It is Council policy to secure the development of a high quality walking and cycling network across the County in accordance with the relevant Council and National Policy and Guidelines.

SIC4- Safer Living Environment- It is Council policy to facilitate the promotion and delivery of a safe environment for both the residents of, and visitors to, the County.

RES9- Housing for all- It is Council policy to support the concept of independent and/or assisted living for older people and people with disabilities/mental health

issues. In this regard the Council will support the provision of specific purpose built accommodation, or adaptation of existing properties, and will promote opportunities for elderly householders to avail of the option of 'downsizing' within their community.

Blackrock Local Area Plan 2015-2021

Relevant policy includes the following:

- Section 2.1.3 identifies lands at St. Teresa's and Dunardagh as a 'Protected Structure Site with development potential.'
- Section 3.5.1 Site Framework Strategies- St. Teresa's and Dunardagh.
- Drawing 2: Site Framework Strategy- St. Teresa's and Dunardagh and Cluain Mhuire.
- Map 5 - Protected Structure Sites with Development Potential.
- Map 6 – Character Areas for St. Teresa's Dunardagh and Cluain Mhuire
- Section 9.3 Rockfield Park Objectives
- Section 9.5 Green Routes

6.2. Natural Heritage Designations

6.2.1. The nearest Natura 2000 sites are:

- South Dublin Bay SAC (Site code: 000210)
- South Dublin Bay and River Tolka Estuary SPA (Site Code:004024)

6.3. EIA Screening

6.3.1. Having regard to the nature and scale of the proposed development comprising the construction of an entrance gateway 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.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The grounds of appeal can be summarised as follows:

- The Planning Authority has failed to give any consideration to the specific circumstances relating to the applicants and the clear rationale for the installation of the gates.
- We trust that the Board will take a more considered and compassionate view.
- The applicant's are fully amenable to a condition limiting the duration of the gates by time or ownership, so that the Council's overarching objectives can be delivered in due course.
- Over the period of the Blackrock LAP, to date, DLRCC have not advanced any initiative to address its objective- clearly because it awaits redevelopment at Dunardagh- such redevelopment is not proposed. The applicant is prepared to accept a five year time limited planning permission in recognition of DLRCC's LAP long term objectives/ or a temporary permission which could terminate if the property passed out of the hands of the Daughters of Charity.
- For the foreseeable future, the Daughter's of Charity have no intention of disposing of Dunardagh.
- The appeal also proposes a potential relocation of the gates to an alternative location to the boundary between zoning objective F, which seeks to 'preserve and provide for open space with ancillary active recreational amenities and the Institutional Zone where the objective is 'to protect and/or provide for institutional use in open lands, thereby reducing the potential that the erection of these gates would interfere with any future development plans.
- The vision and proposals set out in Drawing No. 2 and Site Framework Strategy 3.5.1 of the LAP can only be achieved in the context of re-development. This is not proposed.
- Letters to appeal from Daughters of Charity of St. Vincent de Paul and McCann Fitzgerald. The letter from Daughters of Charity of St. Vincent de

Paul sets out details of facilities at this location together with details of vulnerable residents. Letter from McCann Fitzgerald considers that the sisters have rights to the quiet enjoyment of their property and the refusal violates their private property rights.

7.2. **Planning Authority Response**

- It is considered that 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.

7.3. **Observations**

- None

8.0 **Assessment**

8.1. The main issues are those raised in the appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Development Plan Policy
- Appropriate Assessment

8.2. **Development Plan Policy**

8.2.1. The main issue in this case relates to conflict between Development Plan policies and the current needs of the owners and vulnerable population living at the site.

8.2.2. The proposal is for the installation of security gates at a site owned by Dunardagh Holdings Company and controlled by the Daughter's of Charity.

8.2.3. The Council refused permission as the proposal would materially contravene Objectives DS13, DS14, DS16, RP1, RP2, and RP3 of the Blackrock Local Area Plan, 2015-2021 and Policy ST5: Walking and Cycling of the Dun Laoghaire

Rathdown County Development Plan, 2016-2022. It would impede access to Rockfield Park, and would restrict permeability through the overall site.

- 8.2.4. The subject site is a Protected Structure, RPS No. 756. The development site forms part of the conjoined sites of St. Teresa's and Dunardagh which are identified in Section 3.5.1 of the Local Area Plan (Map 6 and Drawing 2) as a prominent site with development potential. The vision for the Site Framework Strategy envisages a high quality residential development that maximises the site's potential while respecting the rich historical legacy and sylvan setting. According to the plan, the site offers a unique opportunity to develop a new 'edge' to Rockfield Park along with the creation of a new public entrance to the Park. This new entrance would provide an appropriate location and setting for the Protected Structure using the original entrance gates and piers to Dunardagh. Objectives DS13- DS16 are attached to this report and relate to movement and permeability on this site. Objectives RP1- RP3 relate to enhanced usage and permeability of Rockfield Park including improved pedestrian and cycle usage and the creation of a new entrance point to Rockfield Park, together with a small short-term car park. Policy ST5 of the Dun Laoghaire Rathdown Development Plan states that it is Council Policy to secure the development of a high quality walking and cycling network across the County in accordance with relevant Council and National policy guidelines.
- 8.2.5. The case made by the developer is that these are 'overarching policies' that can only happen in the context of a complete redevelopment of the site. For the foreseeable future, the Daughter's of Charity have no intention of disposing of Dunardagh. It is considered that the Planning Authority has failed to give any consideration to the specific circumstances relating to the applicants and the clear rationale for the installation of the gates and it is hoped that the Board will take 'a more considered and compassionate view'.
- 8.2.6. The circumstances set out by the applicants in the appeal and application documentation is that the proposed gateway is not for decorative purposes. The property comprises both Laboure House Care Home and St. Catherine's Provincial House and Convent, home to 33 active and retired members of the Daughter's of Charity. Two thirds of the residents are over the age of 80 and many are sufficiently frail as to require round-the-clock care from healthcare professionals. For those capable of using the Dunardagh grounds, the lack of security is a genuine source of

concern and the context of their immediate surroundings is fundamentally altered by way of an SHD scheme which was granted on the site under ABP 303804-19 for 291 units. The imminent development of this site further highlights the need for the remaining community to feel secure within their own lands. A security company has been employed to monitor the area at night, but it is not viable, nor fair to expect, that this service be extended to daytime when a simple gateway would suffice.

8.2.7. The applicant's are fully amenable to a condition limiting the duration of the gates by time (suggested time put forward by applicants of 5 years), or ownership, so that the Council's overarching objectives can be delivered in due course. The appeal also proposes a potential relocation of the gates to an alternative location to the boundary between zoning objective F, which seeks to 'preserve and provide for open space with ancillary active recreational amenities and the Institutional Zone where the objective is 'to protect and/or provide for institutional use in open lands, thereby reducing the potential that the erection of these gates would interfere with any future development plans.

8.2.8. The present situation is that there is no access for the general public to Rockfield Park from St. Catherine's Provincial House and there is no permeability through the overall site. This is not going to change in the near future as the applicant's have stated clearly and numerous times in the application and appeal that they have no plans or intention of disposing of Dundaragh for the foreseeable future. I accept that the proposed development does contravene the policies and objectives stated in the reason for refusal. Nonetheless, I consider that the residents currently living at St. Catherine's are a unique and vulnerable cohort of the population of Dun Laoghaire Rathdown. I note that there are Development Plan policies which provide for a safer and more suitable living environment for elderly and vulnerable people including Policy SIC4: Safer Living Environment- 'It is Council policy to facilitate the promotion and delivery of a safe environment for both the residents of, and visitors to, the County', and Policy RES9 which supports the concept of independent and or assisted living for older people.

8.2.9. I consider that the proposed relocation of the access from lands zoned open space to lands located within the institutional zone would be a preferable option as it would reduce the potential that the erection of the gates would interfere with any future development plans. I also note that this location would be further removed from the

proposed relocation of the formal entrance to the park which is to be created by re-siting the original entrance gate- as indicated on Drawing No. 2 Design Principle No. 5. In terms of the impact on the protected structure, I consider that both the original, and the proposed alternative location, are well removed from the protected structure and in my view, there would be minimal impact on same. In addition, I consider that the design of the gate is appropriate and sensitive.

8.2.10. I am satisfied that there are no proposals by the applicant to develop this land in the foreseeable future and I consider that the reason for refusal related to policy objectives which can only be achieved in the context of a complete re-development of the site. It is very likely that this will happen in the future but for now, it is my view that the unique and vulnerable population of elderly nuns currently living at the site, should be permitted to continue to live at this location in a safe and secure environment. I consider that the erection of a security gate would be of considerable assistance in this regard. I note that the applicant is amenable to accepting a temporary permission providing for a condition which permits the gates for a 5 year period. I consider that this timeframe would be reasonable to enable further assessment at this time of the prevailing circumstances should the Board be minded to grant permission in this case.

8.3. Appropriate Assessment

8.3.1. Having regard to the nature and scale of the proposed development, and its distance 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.

9.0 Recommendation

9.1. I recommend that permission is granted.

10.0 Reasons and Considerations

Having regard to the pattern of development in the area and the design and scale of the proposed security gate and to the provisions of the Dún Laoghaire-Rathdown County Council Development Plan 2016-2022 and the Blackrock Local Area Plan, taking together with the unique circumstances outlined in the application documentation in relation to the needs of the existing community at this location, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by further details submitted to the Board on the 25th day of August, 2021, 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. The proposed security gate shall be relocated to the alternative location indicated in the map entitled 'Alternative position of gates (red arrow)' in the appeal documentation. Revised plans and particulars showing compliance with this requirement shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of orderly development.

3. This permission is for a period of 5 years from the date of this order. The gate shall then be removed unless, prior to the end of the period, permission for its retention shall have been obtained.

Reason: To allow for a review of the development having regard to the circumstances then prevailing, and in the interest of orderly development.

Emer Doyle
Planning Inspector

22nd December 2021