



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311952-21

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<b>Development</b>	Permission for a proposed vehicular access, front boundary wall, and a driveway within the site.
<b>Location</b>	Baymeadows, Ballykea, Loughshinny, Skerries, Co. Dublin, K34 D286
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F21A/0449
<b>Applicant(s)</b>	Sandra FitzSimons.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Sandra FitzSimons.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> of January 2022
<b>Inspector</b>	Karen Hamilton

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## 1.0 Site Location and Description

- 1.1. The subject site (c. 0.151ha) comprises of a large two storey dormer dwelling which fronts onto the Harbour Road, Loughshinny, Skerries, Co. Dublin. The Harbour Road, also known as Loughshinny Park is a local road (L320) which radiates east from the R128, towards the coast.
- 1.2. The dwelling (Baymeadows) has large front and rear gardens. The entrance into the site is via an adjoining detached property, to the west. The adjoining dwelling and associated site to the west are within the applicant's control (Seaview). The current access arrangement was permitted under Reg Ref F01A/0173. The current entrance comprises of a block wall and pillars. The front boundary treatment comprises of raised earthen bound with a fence and large mature hedgerow above. The entrance to the neighbouring property to the east adjoins the site and includes large mature leylandii hedging.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
  - Permission for a proposed vehicular access, front boundary wall, and a driveway within the site.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to refuse permission for the following two reasons:

1. The applicant has not demonstrated the availability of adequate sightlines from the proposed vehicular entrance. The proposed development would therefore endanger public safety by reason of traffic hazard, would be contrary to Objectives DMS126 and DMS129 of the Fingal Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

2. 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.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission as summarised below;

- The proposal includes the complete removal of the low earthen mound/embankment, existing fence and mature hedgerow along the front of the site.
- It does not appear that there is any remediation works proposed to the adjacent property's mature hedgerow.

#### Compliance with zoning objectives

- The principle of development is not acceptable as the proposal is contrary to Objective DMS126 and Objective DMS129.

#### Visual integration/impact on character of area

- The loss of hedgerow will cause a negative impact although relocation to a safer location south would improve traffic safety and not negatively impact visual amenity.

#### Transport Issues

- Additional information was requested by the Transport Section. They note the inadequacies in the application with no sightline drawings. The neighbours to the east would be required to cut back their hedgerows to achieve the sightlines. The existing telegraph poles may cause restrictions. The entrance does not comply with the requirements of a previous grant of permission (Reg Ref. F01A/0173). The proposed entrance would be unsafe due to the limited sightlines and contrary to Objectives DMS12 and DMS129 of the development plan.

#### Water & Drainage Issues

- It is not clear if there are permeable or impermeable materials proposed for the driveway. The proposal may have a negative impact on the surface water drainage.

### 3.2.2. Other Technical Reports

Transport Planning Section- Additional Information requested in relation to the achievement of sightlines to the east and the submission of any necessary third-party consents to cut back the hedge.

### 3.3. Prescribed Bodies

None received.

### 3.4. Third Party Observations

None received.

## 4.0 Planning History

### **Reg Ref F05B/0583**

Retention permission was granted for:

- a) Bay window & dormer window to the northern elevation;
- b) Hi level velux windows to west elevation;
- c) Sunroom to south elevation;
- d) Single storey shed to rear private garden and other minor alterations to an existing dormer dwelling approved under Reg Ref F01A/0117

### **Reg Ref 04A/1327**

Permission refused for a new bungalow with wastewater treatment unit to the front of an existing dormer bungalow at Baymeadows.

### **Reg. Ref. F10A/0173**

Permission granted for a detached dormer bungalow and new treatment unit to the side of a family dwelling,

Condition No 7: The existing wing walls at the existing entrance shall be lowered in height to 0.9m for a distance of 0.25m back from the edge of the carriageway. The proposed new front boundary hedge shall be maintained at a max height of 0.9m to ensure adequate sight visibility at the entrance.

Reason: In the interest of traffic safety.

## 5.0 Policy Context

### 5.1. National Policy

Design Manual for Urban Streets (DMURS) (2019)

### 5.2. Fingal County Development Plan 2017-2023

#### Zoning

The site is zoned as Residential, RS, where it is an objective *“To provide for residential development and protect and improve residential amenity”*.

#### Landscape

- The site is located in an area designated as “Highly Sensitive Landscape”

#### Traffic & Transport

- Objective RF56: 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.
- Objective DMS126: Restrict unnecessary new access directly off Regional Roads. Ensure premature obsolescence of all country/local roads does not occur by avoiding excessive levels of individual entrances. Ensure new entrances are designed in accordance with DMRB and DMURS as appropriate, thereby avoiding the creation of traffic hazards.
- Objective DMS129: Promote road safety measure in conjunction with the relevant stakeholders and avoid the creation of traffic hazards.

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

None of relevance.

### 5.4. **EIA Screening**

The proposed development includes the creation of an entrance into a site which comprises of an existing dwelling and associated garden. The proposed works include the removal of a hedgerow along the front boundary. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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, the owner of the site.

#### 6.1.1. Introduction

The supporting documentation indicates that the applicant's mother, the previous owner of Seaview (the adjoining dwelling) has deceased, and it is intended to sell this dwelling. The applicant that this is the rationale for the applicant for a new standalone entrance for Baymeadows. The issues raised in the grounds of appeal are summarised below:

#### 6.1.2. Unsolicited Information and Article 35

- The PA would not allow the submission of additional information
- The additional information was within the 8 weeks.
- Under Article 35 of the Planning and Development Regulations, 2001, the PA is required to allow the submission of additional information or evidence.

#### 6.1.3. Background of the planning application

- The requirement for the entrance permitted under F06A/1923 is different to this application as it serves 5 no dwellings.
- Photographs of different setbacks ( $x = 0.00\text{m}$ ,  $0.75\text{m}$ ,  $1.5\text{m}$  and  $1.9\text{m}$ ) on the site have been submitted (Image 03, 04 and 05)
- When  $x$  is  $1.1\text{m}$  and the adjoining property's hedgerow to the east was cut back to the front boundary line, this would increase the  $x$  dimension to  $1.5\text{m}$ . Even if the  $x$  was  $1.1$  it is a relaxation of the sightline requirements in F06A/1923.
- The additional information pack included alternative access locations (Options 2 & 3). The original entrance option is Option 1.
- Drawing 07 includes the achievable sightlines.
- In Option 3 one of the trees has been removed but the new formed access can easily achieve all the requirements (Image 07) when looking east it shows the  $35\text{m}$  mark is well away from the adjoining property hedgerow.
- In Option 2 the  $x$  dimension of  $1.4\text{m}$  is achievable (Image 08) and where the adjoining property hedgerow is cut back  $2.0\text{m}$  can be achieved. The trees can be retained if Option 2 is allowed.
- Image 09 indicates that the location of the light pole would not be an issue as it has been allowed in previous applications (F97A/0535) and F97A/0568.
- These documents above were submitted as additional information once the sightlines were discussed with the FCC staff on site. It was stated that  $x$  of  $2.0\text{m}$  would be required with  $35\text{m}$  sightlines in both directions. These increases and changes have now been included in the submitted documentation.
- Both the  $45\text{m}$  and the  $35\text{m}$  sightline distance is easily achievable without the removal of the adjoining landowner's hedge. The proposal complies with DMURS.
- The "Consultee Report" was uploaded on FCC on the 18/10/2021, this was after I had submitted the additional information to FCC (14/10/2021).



#### 6.1.4. Response to the 2 no reasons for refusal.

- In relation to the first reason for refusal Appendix 2 illustrates in Images A & B that at 1.4m set back sightlines of 80m are achievable and at 2.0m setback (x value) sightlines of 35-45m are achievable.
- The new access would not inhibit Objective DMS126 or Objective DMSS129 as it makes the present situation a safer option.
- In response to the second reason for refusal, the proposal would not be out of the ordinary from that in the vicinity as all of the dwellings have individual entrances.
- The current access into the site does not achieve the  $x = 2.3m$  requirements. The new access makes the situation better.

#### 6.1.5. Conclusion

- It is again reiterated that following extensive discussion with FCC they would not accept the additional package of drawings (Ref 20211013) on the 19<sup>th</sup> of October 2021.
- The date of the “Decision” was the 18<sup>th</sup> of October 2021 which is within the week period.

#### 6.1.6. Additional information.

- The following information also accompanied the grounds of appeal as information:
  - Dates of PA decisions
  - Copy of the Transport Planning Section Report
  - Images of the site boundaries with markers for the proposed sightlines,
  - Abstract of the Fingal County Development Plan 2017-2023 (roads objectives)
  - Images of existing accesses with telegraph poles along the front boundary
  - PA acknowledgment of the receipt of planning application
  - PA return of additional information

- Chief Executive Order for the decision
- Applicant's correspondence with the PA
- TII publication on the design of junctions.

## 6.2. Applicant Response

The applicant is the appellant.

## 6.3. Planning Authority Response

A response from the PA dated the 13<sup>th</sup> of December 2021 states that there is no response to the grounds of appeal. In the event of a grant of permission it is requested that a Section 48 Development Contribution is included by the Board.

## 6.4. Observations

None received.

## 7.0 Assessment

7.1. The proposed development relates to the construction of a new access for a dwelling which currently shares an access with the adjoining dwelling. The PA reason for refusal (and the Transport Section report) referred to the absence of third party consents necessary to achieve the required sightlines. The grounds of appeal include an additional two options for a new access into the site (Option 2 & 3). These were not previously considered by the PA, further discussed below. The appellant notes that they attempted to submit these as unsolicited additional information.

7.2. The following assessment has regard to these additional access options. The PA has been circulated the information for comments and I note no third-party submissions on the original application.

7.3. Having regard to this additional information and the information on file I consider the main issues of the appeal can be dealt with under the following headings:

- Access and New Entrance
- Unsolicited Information

- Appropriate Assessment.

## Access and New Entrance

### Introduction

- 7.4. The subject site includes a large, detached dormer dwelling. Access into the site is via a shared entrance (adjoining dwelling to the west) as permitted under the grant of permission for the subject dwelling (Baymeadows) Reg Ref F01A/0173. The proposed development comprises of a new entrance into an existing dwelling. The works include the removal of a raised earth mound, a new grassed verge with a 0.9m high plastered and capped blockwork wall along the front boundary line. The new access includes similar blockworks piers and wing walls.
- 7.5. The grounds of appeal are submitted by the owner of the dwelling against the refusal of permission by the Planning Authority (PA). The PA noted the absence of sufficient detail within the application documentation necessary to assess the required sightlines and considered the overall proposal would endanger public safety by reason of traffic hazard, be contrary to Objectives DMS126 and DMS129 of the Fingal Development Plan 2017-2023 and would set an undesirable precedent for other similar developments thereby having a negative impact on the residential amenity.
- 7.6. As stated above, the appellant has submitted a further two options for a new access into the site for consideration by the Board. I have summarised the key points from each of the options below, for ease of discussion.

Table 1: New access options presented by the applicant

Option	Location	Sightlines (further analysis provided below)
Original (with application)	Located right (east) of the front boundary, adjoining a property to the east.	x = 2.0m and >35m can be achieved to the west.  PA stated the front boundary hedge to the east impedes visibility to the east.

Option 2 (appeal)	Centrally located along the front boundary.	x = 2.0m setback with a grass verge along the roadside.  Electric pole to the west of the entrance within the grass verge
Option 3 (appeal)	Located left (west) of the front boundary, adjoining the existing access.	x = 2.0m with a grass verge along the roadside.  Electric pole to the east of the entrance within the grass verge.

### Sightlines

- 7.7. Section 4.4.4 of DMURS provides a breakdown of the necessary visibility splays for new accesses. Table 4.2 states that a visibility of 45m is required along a road with a design speed of 50km/h. Section 4.4.5 of DMURS provides further guidance for appropriate visibility spaces and notes a required set back (x distance) of 2.4m or 2.0m where vehicle speeds are low.
- 7.8. The Transport Planning Section report on the original application noted the proposed development was located in a 50km/h zone which required sightlines of 45m in each direction, as per DMURS requirements. A relaxation of 2.0m was acceptable for the setback, having regard to the use of the site for one dwelling only. The Transport Section raised concern in relation to the location of the access beside the property to the east which had high planting along the front boundary. The hedge was within the required visibility splay to the east. It was considered that the neighbour's consent would be required to cut back this hedge, 2.2m from the roadside edge and less than 1.4m in height.
- 7.9. As stated above, the applicant has submitted a further two options for a new access into the site. Having regard to the comments from the Transport Section in relation to the location of the neighbouring properties hedge within the sightlines to the east, which I consider reasonable, I consider the first option (the original application), cannot provide the 45 m sightlines and therefore can not comply with the minimum DMURS standards.

- 7.10. In relation to the new options submitted, I note the drawings clearly illustrate the setback of the front boundary from the edge of the road at 2.0m (x distance). The submitted elevation drawings illustrate the removal of the existing earthen mound, fencing and hedgerow along the front boundary to accommodate a new entrance. Having regard to the characteristics of the road which provides local access for a small village and the use of the access for one dwelling, I consider the reduced setback of 2.0m is acceptable at this location. The sightlines for both options are illustrated on Drg. No. 07-P-A1. I have assessed these drawings and have undertaken my own measurements. As discussed below, I have some concerns in relation to the applicant's submitted drawings.
- 7.11. In the first instance, the applicant has used visibility splays of 35m in both directions. As stated above, the DMURS guidance permits a relaxation of the x distance to 2.0m (instead of 2.4m) although no relaxation of the y distance is permitted. This aside, I note the applicant's visibility splay for Option 2 is not measured from the 2.0m setback and is within the area allocated for that setback. When the sightline measurement is taken 2.0m from the edge of the carriageway the hedging of the property to the east of the site is within the visibility splay to the east, both with a y distance of 35m (applicant's proposal) and 45m (required DMURS standards). In this regard, it is my opinion that Option 2 does not include an access which can achieve the minimum sightline requirements as per Table 4.2 of DMURS.
- 7.12. In relation to Option 3, I also note that the applicant has also used a y distance of 35m rather than the required 45m. If the 45m was to be applied along the east of the site, I would still have concerns that some of the adjoining properties hedging may encroach into the visibility splays. The Board will also note from Drg. No. 07-P-A1 that the pier of the existing dwelling is within the visibility splay to the west. It is unclear from the submitted drawings the height etc. of this pillar although it appears from site inspection that this may be less than 0.9m. As the current entrance and associated pillars are within the applicant's control the requirement to comply with DMURS standards for the restriction of height/ and or movement of pillars to the west could be reasonably dealt with by way of condition.
- 7.13. It is noted that a telegraph/ electric pole is located to the front of the applicant's property within the proposed visibility splays. There are no proposals to move this pole. The Transport Section has not raised the location of this pole as an issue of

concern although I note the Planner's report query's the impact on this pole on the sightlines. I note Section 3.6 of the national guidance on junction design from Transport Infrastructure Ireland (TII)<sup>1</sup> states that it is essential that visibility within any required envelopes remains unobstructed by vegetation and street furniture. Whilst these standards and guidance relate to the new junctions which accommodate a greater flow of traffic, I consider the rationale for clear visibility can also apply in this instance. In this regard, I would raise concern in relation to the location of the light/electric pole and the potential impact this would have on the safe movement of cars from the site. These concerns apply in all options presented by the appellant.

- 7.14. Therefore, having regard to the proposed sightlines (y = 35m) and the absence of any consent from the adjoining property owner to the east of the site (in relation to the hedge setback and/or maintenance) I do not consider the applicant can provide the necessary visibility splays required to meet the minimum DMURS standards. In this regard, and in combination with the existing street furniture, I do not consider the proposed development can provide an access which would free of any potential traffic hazards. I recommend that permission is refused for the new entrance, having regard to all the options presented by the applicant.

#### Objective DMS126

- 7.15. The first reason for refusal noted that the proposed new access was contrary to Objectives DMS126. Chapter 12 (Development Management Standards: Roads) of the Fingal County Development Plan 2017-2023 includes Objective DMS126 as *“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”*.
- 7.16. The grounds of appeal consider the revised sight layouts, including Options 2 & 3, provide a safer option and would not inhibit the objectives of the development plan. As noted above, I have assessed all the options presented by the applicant and I do

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<sup>1</sup> Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated, and compact grade separated junctions) TII (2017)

not consider the proposed entrance can comply with the minimum standards in Table 4.2 of DMURS.

- 7.17. In relation to the creation of a new entrance, the grounds of appeal make reference to the number of new entrances in the vicinity which serve each of the standalone dwellings. Upon site inspection it was evident that the majority of dwellings in the vicinity of the site had private access into the sites. Having regard to the characteristics of the area and the location of the site within a village style setting I do not consider a new access at this location would create an excessive level of individual entrances. Although I do not consider the creation of a new entrance would be contrary to Objective DMS126, as discussed above, I do not consider the access can meet the DMURS requirements. Therefore, I consider the proposed development is contrary to Objective DMS126 of the development plan.

#### Objective DMS129

- 7.18. The first reason for refusal also noted that the proposed new access was contrary to objectives DMS129. Chapter 12 (Development Management Standards: Road Safety) of the Fingal County Development Plan 2017-2023 includes Objective DMS129 as “*Promote road safety measures in conjunction with the relevant stakeholders and avoid the creation of traffic hazards.*”
- 7.19. As per comments above in relation to Objective DMS126, the grounds of appeal consider the new access options submitted (2 & 3) illustrate the required sightlines and therefore the proposal would not inhibit this objective. As noted in my assessment above, I have concerns that the design of the original access (option 1) and the further two options (2 & 3) submitted with the grounds of appeal, do not meet the required minimum standards. Having regard to the sightlines proposed, the location of the telegraph/electric pole and the absence of any third-party consents from the property to the east of the site, I consider the new accesses proposed would create a traffic hazard and would therefore be contrary to Objective DMS129 of the development plan.

#### Conclusion

- 7.20. The proposed development includes the creation of a new access for the Baymeadows dwelling. The applicant intends to sell off the adjoining dwelling (Seaview) which currently shares an entrance with Baymeadows. Whilst I consider

the principle of a new entrance acceptable, I have concerns that the options presented to the Board (original access and two new proposals Options 2 & 3) cannot meet the required minimum standards in DMURS and therefore would cause a traffic hazard. I note the report of the Transport Section requested additional information and highlighted the need for third party consents to ensure sufficient sightlines to the east of the site. It is my opinion that the proposal before the Board does not overcome these previous concerns and remains a traffic hazard. It is my opinion that the proposed development is refused.

### **Unsolicited Information**

- 7.21. The grounds of appeal have raised concern in relation to the PA refusal to accept unsolicited additional information during the planning process associated with the planning application. As stated above, the appellant has detailed this additional information as being Option 2 & 3 (submitted for the Boards consideration). I consider the procedures associated with the additional information during the planning process are a matter for the PA.

### **Appropriate Assessment**

- 7.22. Having regard to the location, scale and nature of the proposed development it is considered that no appropriate assessment issues arise. The proposed development would not 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 that planning permission should be **refused** for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

1. The proposed development includes the creation of a new access along the L320. Objective DMS126 of the Fingal County Development Plan 2017-2023 requires all new entrances to be designed in accordance with DMURS. Table 4.2 of DMURS requires a visibility of 45m along a road with a design speed of 50km/h. The submitted documentation illustrates sightlines of 35m for Options



1, 2 and 3 of which these are restricted by the front boundary hedging of the neighbouring property to the east. It is considered the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted in an eastern direction.

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Karen Hamilton  
Senior Planning Inspector

28<sup>th</sup> of February 2022