



An  
Bord  
Pleanála

## Inspector's Report 312959-22

<b>Development</b>	Permission for the retention of an artistic mural painted on the front north elevation
<b>Location</b>	Albion House, 31 Sandycove Road, Sandycove
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D21A/1099
<b>Applicant(s)</b>	Cathy McGovern
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Cathy McGovern
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Maeve Barry, Elton Park</li><li>2. Rebecca Bristow, 31B Elton Park</li><li>3. Bernadette Heneghan, Breffni Tce.</li></ol>
<b>Date of Site Inspection</b>	2 <sup>nd</sup> May 2022
<b>Inspector</b>	Mary Kennelly

## **1.0 Site Location and Description**

- 1.1. The site is located on Sandycove Road just to the west of the junction with Elton Park in Sandycove. Sandycove Road is a busy road which links the village of Glasthule and Dun Laoghaire beyond to the west with Dalkey to the east. The character of the street is one of mixed uses with period houses and commercial premises fronting onto the street. Elton Park is primarily a residential street although Sandycove Tennis and Squash Club is located on the western side. The commercial uses in Sandycove village are primarily located further to the west. The properties on the opposite (northern) side of Sandycove Road are mainly residential and beyond the Elton Park junction to the east, the character of the road changes to one of predominantly residential properties.
- 1.2. The site comprises a 2-storey terraced house with painted render façade and a parapet with cornice. The house is set back from the road with a small shallow garden. It forms a pair with the immediately adjoining house to the east, (No. 31B) which occupies the corner site with Elton Park. However, No. 31B has a front porch facing Sandycove Road and a further front door facing Elton Park. Both properties have pedestrian only entrances, which is generally consistent with the residential properties fronting Sandycove Road in the vicinity of the site. Immediately to the west is a commercial premises which is a two-storey building which extends to the back-edge of the public footpath. This property is in use as a Beauticians' salon and has a shopfront. Beyond this property, the houses again are set back briefly before a further commercial premises (formerly Buckley's Galleries, and now a shop with a cafe) protrudes to the public footpath. The recessed residential properties occupy the lands to the west of this commercial premises as far as the next set of commercial uses.
- 1.3. The front façade of the appeal site contains a large painted mural depicting two dancing and boxing ballerinas.

## **2.0 Proposed Development**

- 2.1. It is proposed to retain the mural on the front elevation. It is described in the submitted application as an 'artistic painted mural'. The figures occupy the full 2-storey height of the façade.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to refuse permission for one reason:

Having regard to the residential nature of the subject site, located in an area to which the land use zoning Objective A applies, which is to protect and/or improve residential amenity and to the prominent visibility of the mural proposed to be retained on this streetscape close to a junction, the development proposed to be retained, by reason of its prominent design, and size, is visually incongruous in this context, and out of character with the subject dwelling on which it is located. The development proposed to be retained would not accord with the provisions of the Dun Laoghaire Rathdown County Development Plan, 2016-2022 regarding Policy AR5: Buildings of Heritage Interest, and Policy AR8: Nineteenth and Twentieth Century Buildings, Estates and Features. The development proposed to be retained would adversely impact on the visual amenities of the area, would depreciate the value of property in the vicinity and would be contrary to the zoning objective at this location to protect and improve residential amenity. Furthermore, the development proposed to be retained would set an undesirable precedent for other similar development in the area. The development proposed to be retained would, if permitted, be contrary to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The planning report noted the location of the site in a residentially zoned area where the objective is to protect and improve residential amenity. It was noted that the subject site, the adjoining property and the majority of properties in the general area are in residential use, apart from the property to the west, which is in commercial use. It was considered that the mural was inappropriate in this residential area by reason of the large size, approximately 2-storey equivalent height, contrasting and vibrant colours and relatively prominent location.

Notwithstanding the residential use of the property, reference was made to the signage policy of the Development Plan (8.2.6.8). The CDP policies prohibit signs, wall panels, posters etc. where they would confuse or distract users of any public road. Signage is also required to be simple in design, be sympathetic to the features of the building on which they are displayed and that no sign shall be unduly obtrusive or out-of-scale with the building façade.

Policy objectives AR5 Buildings of Heritage Interest and AR8 Nineteenth and Twentieth Century Buildings were also referenced. These policies note that such historic buildings generally make a positive contribution to the streetscape and historic built environment of Dun Laoghaire and should be retained. It was considered that the retention of the mural would be inappropriate in terms of visual amenity as its position, layout, design and form are unacceptable, it has an overly prominent and seriously negative impact on the visual amenities and character of the dwelling house itself and of the streetscape and the surrounding area.

Refusal was, therefore, recommended for reasons that were generally in accordance with the P.A. decision.

### **3.2.2. Other Technical Reports**

No relevant reports.

### **3.3. Prescribed Bodies**

3.3.1 None.

## **4.0 Planning History**

No relevant history on the site.

## **5.0 Policy Context**

### **5.1. Dun Laoghaire Rathdown County Development Plan 2022-2028**

5.1.1 Since the planning authority decision on the 22<sup>nd</sup> February 2022, a new development plan has been adopted for the area. Dun Laoghaire Rathdown County Development Plan 2022-2028 was adopted on the 9<sup>th</sup> and 10<sup>th</sup> of March 2022 and came into effect on the 21<sup>st</sup> April 2022. This is now the relevant statutory plan for the area.

5.1.2 The site is zoned **Objective A** for which the objective is to “To provide residential development and improve residential amenity while protecting the existing residential amenities”. Relevant policies contained in Chapter 11 Built Heritage and Chapter 12 Development Management are generally consistent with the policies that were referenced in the planning reports and include the following:

### 5.1.3 Built Heritage

#### 11.4.3.2 Policy Objective HER20: Buildings of Vernacular and Heritage Interest

– Retain, where appropriate, and encourage the rehabilitation and suitable reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of the area and streetscape in preference to their demolition.

#### 11.4.3.3 Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Features

– Encourage the retention and reinstatement of features that contribute to the character of exemplar nineteenth and twentieth century buildings, and estates such as roofscapes, boundary treatments and other features considered worthy of retention.

**12.6.8.2 – Signage** – To protect the amenities and attractiveness of the County, no commercial advertising structure will be permitted in the open countryside, on or near a structure of architectural or historical importance, in architectural conservation areas, on public open space, in areas of high amenity, within important views, in residential areas, or where they would confuse or distract users of any public road. Where signs are permitted, they should be simple in design and sympathetic to the surroundings and features of the buildings on which they will be displayed, and no sign should be unduly obtrusive or out of scale with the building façade.

#### 12.6.8.3 Wall Panel/Poster Board Advertisements

- Wall panel/poster board advertisements may be permitted on commercial premises in Major Town Centres, District Centres and Neighbourhood Centres. The size should relate to a pedestrian scale. Larger panels are generally considered inappropriate in locations proximate to pedestrians.
- A wall panel should be sited back from the wall edges and not fill entire wall sections and obscure tops/sides of walls and have regard to the symmetry

and features of the wall on which they are displayed. They should not normally be placed on buildings above ground floor level.

- The wall panel/poster board advertisements will not be permitted where they would cause confusion or distraction to users of any public road.

#### **12.6.8.8 Driveways and hardstanding areas –**

A minimum of one third of the front garden areas should be maintained in grass or landscaped in the interest of urban greening and SUDS. In the case of smaller properties – such as small, terraced dwellings – this requirement may be relaxed. Each driveway, parking and hardstanding area shall be constructed in accordance with SUDS and include measures to prevent drainage from the driveway entering onto the public road. Where unbound material is proposed for driveway, parking and hardstanding areas, it shall be contained in such a way to ensure that it does not transfer on to the public road or footpath on road safety grounds.

## **5.2. Natural Heritage Designations**

South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024) lie approx. 1km to the north.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The first-party appeal may be summarised as follows:

- **Residential amenity** – it is clear from the overwhelming local and national public support and approval (see appendix 1) that it is considered as a positive addition to the area and that it improves residential amenity. The mural was painted during the pandemic and its purpose was to provide joy, colour and interest at a time when life was difficult and restricted. It is an iconic piece of art by a respected Irish artist and should be allowed to be retained.
- **Prominent visibility** – it is disputed that the mural is visually prominent as it is painted onto a flat surface. There is no aesthetic homogeneity along the streetscape at this location.

- **Road safety** – It is screened by the building to the west and cannot be seen by motorists travelling north on Elton Park and is only visible in oblique views on the other approaches to the junction. It is not accepted that it presents a traffic hazard. In terms of visual prominence it is mainly visible to pedestrians.
- **Visually incongruous** - it is strongly disputed that the mural is visually incongruous and has been specifically designed for this particular façade and is visually appealing and impactful. It is questionable as to how any artwork can be 'out of character'. The house is the middle one of a terrace of three, one of which has a commercial clinic and the other a historic auction house related development.
- **Depreciate the value of property in the area** – There is simply no evidence of this. A statement from a local estate agent was included in the letter which confirms the view that the mural adds to the aesthetic value of the area and does not de-value properties in Sandycove.
- **Undesirable precedent** – this reason for refusal suggests that street art is undesirable, which is strongly refuted. The council's policy SIC 12: Arts and Culture supports the development of arts at a local level. Each planning application falls to be judged on its own merits and the setting of a precedent should not by itself be a basis for determining a proposal.

## 6.2. Planning Authority Response

6.2.1 The P.A. has not responded to the grounds of appeal.

## 6.3. Observations

6.3.1. Three observations have been submitted from local residents. Each of the submissions is in the form of support for the mural and make similar comments to those in the grounds of appeal. It is pointed out that the Council has commissioned a painting of James Joyce on an ESB substation on the opposite side of the road. This seems to be wholly inconsistent with the approach taken in regard to the 'boxing ballerinas'.

## **7.0 Assessment**

**7.1.** It is considered that the main issues arising from the appeal are as follows:-

- Principle of development
- Road safety
- Visual amenity

### **7.2. Principle of development**

**7.2.1.** The grounds of appeal place much emphasis on the artistic value of the mural and consider that CDP Policy SIC12 : Arts and Culture is more relevant than policies relating to signage, advertising and heritage. Policy SIC 12 of the 2016 Development Plan has been replaced by Policy Objective PHP10 Music, Arts and Cultural Facilities in the current CDP (2022). It seeks to facilitate the continued development of arts and cultural facilities throughout the county in accordance with the Council's Arts Development Plan. Reference is also made to the DLR Co. Co. Public Art Policy 2018-2025 which facilitates the development of public art within the public realm.

**7.2.2.** The scope of the Public Art Policy (2018) is set out in that document (available on the P.A.'s website). It is stated that

The scope of the policy covers the commissioning of permanent and temporary public artworks sited both indoors and outdoors in the county that are commissioned or originated by any department in the county council on sites owned or managed by DLR Co. Co.

Public participation and engagement will form a central part of any public art commission. A Public Art Steering Group will be formed to oversee all public art commissioning and will have overall responsibility for the implementation of public art in the county and all commissioning will be centralised through this group in order to ensure the most effective use of funding, the commissioning of the highest quality of work and the most strategic approach in terms of connection to other key objectives

**7.2.3.** It would appear, therefore, that there is a system in place which provides a structure for public art to be developed in a co-ordinated and systematic way, which makes provision for public engagement and seeks to ensure that the public art that is



commissioned is appropriately located and of a high quality. The Government also has a 'Per Cent for Art' scheme, which was originally launched in 1978 and has been reviewed and updated in October 2020 (Dept. of Tourism, culture, Arts, Gaeltacht, sport and Media). Under this scheme, 1% of the cost of any publicly funded capital, infrastructural and building development can be allocated to the commissioning of a work of art. Thus, there is a system outside of the planning code which seeks to co-ordinate such public artwork. This seems reasonable as it would not be appropriate for the planning system to judge the merits of a piece of public art, in terms of its artistic value.

**7.2.4.** The appellant considers the assessment of the proposed development under the policies and objectives relating to advertisements and signs to be inappropriate. I would have some sympathy with this view. However, there are no specific planning policies for the painting of privately commissioned murals on the wall of a private house, which is not surprising, as this type of activity is normally managed as part of the Council's Public Art Policy or the Governments Per Cent for Art Scheme. In the absence of such a policy framework, it is considered reasonable to apply the policies relating to signage and advertisements, as this is the closest policy framework available.

**7.2.5.** The policies on signage and advertisement have the following common principles

1. They should not be placed on residential buildings.
2. They should be sympathetic to and respect the nature and scale of the façade on which they are placed.
3. They should not extend above ground floor level.
4. They should not distract passing motorists.

The avoidance of residential properties and areas is considered reasonable as it would be inappropriate for commercial entities to use residential premises to advertise their products and services and/or to dominate the façade of a house. Although the mural that is the subject of the current application is not a commercial advertisement, it is nonetheless a large feature which extends the full height of the façade on either side of the door. It occupies a considerable amount of the façade and is highly visible and noticeable from the street. The impact on visual amenity and road safety will be considered in the following sections. However, I would agree with

the P.A. that the painting of two large figures on the façade of a residential dwelling in an area that is predominantly residential is likely to detract from the residential amenities of the area.

- 7.2.6.** It is acknowledged that there has been no objection to this particular mural and in fact, it has generated considerable support, as demonstrated by the appellant. Notwithstanding this, it is considered that the retention of the mural on the façade of a residential property on a main street which is predominantly residential in character, by reason of its size and scale relative to the scale of the façade, would detract from the residential amenities of the area. It would therefore be contrary to the zoning objective for the area and would be inappropriate in principle.

### **7.3. Visual amenity**

- 7.3.1.** Paragraph 12.6.8.3 of the CDP requires wall panels and posterboards to have regard to the symmetry and any features of the wall on which it is displayed. The façade in question is a mid-terrace period house of probably Victorian age. It has a smooth-painted and rendered finish with two windows, one on either side of the front door, and 3 windows on the upper floor, which provides a symmetrical composition. There is attractive stonework detailing on this vernacular property including architraves and a decorative parapet. It is considered that the façade makes a positive contribution to the streetscape at this location. It is considered that the mural interferes with the composition and symmetry of the façade and bears little relationship to the features of the original wall. A mural such as this would normally be seen on a plain side gable of a building rather than a front elevation which is characterised by architectural detailing and symmetry. It is considered that it does detract from the character and appearance of the building, which forms an integral part of the streetscape, to which it makes a positive contribution.
- 7.3.2.** It is considered, therefore, that the retention of the mural would not be in accordance with the general principles contained in Policy Objectives HER20 and HER21 of the newly adopted Development Plan, which effectively replace AR5 and AR8 of the 2016 CDP. The mural would, therefore, adversely affect the visual amenities of the streetscape and the area.

## **7.4. Road safety**

- 7.4.1.** I would accept that the mural would not affect motorists approaching the site from the north or the East as it would be screened by existing buildings. The mural would, however, be highly visible from both Sandycove Avenue East and Sandycove Road (approach from the east). Although the motorist passing the house may not be unduly distracted, the proximity and visibility from traffic lights at the junction, mean that a driver could become distracted while sitting at a red light. However, as it is not directly facing divers, I would accept that it is unlikely to give rise to a traffic hazard.

## **7.5. Environmental Impact Assessment**

Having regard to the nature, size and location of the proposed development, 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.

## **7.6. Appropriate Assessment**

South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024) lies approx. 2.4km to the north. Given the scale and nature of the development, the distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

## **8.0 Recommendation**

- 8.1.** It is recommended that planning permission be refused for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

1. Having regard to the scale and size of the mural which it is proposed to retain and to its prominent location on a main road linking Dun Laoghaire with Dalkey, to its siting on the front façade of a residential vernacular property which is characterised by a symmetrical composition with attractive architectural stonework, and which makes a positive contribution to the streetscape at this

location, and to the predominantly residential nature of the property in the vicinity, it is considered that the mural would introduce a new feature of significant scale which would be out of scale with the façade and interfere with its symmetry and composition, would detract from the character of the terrace and the streetscape and would seriously injure the visual amenities of the properties in the vicinity. The proposed development would, therefore, be contrary to the provisions of the Dun Laoghaire Rathdown County Council Development Plan 2016-2022, would create an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

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Mary Kennelly  
Planning Inspector

2<sup>nd</sup> May 2022