



An
Bord
Pleanála

Inspector's Report

ABP-314083-22

Development	Retention permission is sought for alterations and additions to dwelling house.
Location	Ross Cottage, Seafield Road, Killiney, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council.
Planning Authority Reg. Ref.	D22A/0306.
Applicant(s)	Peter Grealis.
Type of Application	Retention Permission.
Planning Authority Decision	Refused.
Type of Appeal	First Party.
Appellant	Peter Grealis.
Observer(s)	Maria McArdle.
Date of Site Inspection	18 th day of November, 2022.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. 'Ross Cottage', the appeal site has a given area of 139m². It is located on the eastern side of Seafield Road, c195m to the south of its junction with Military Road, in the Dublin city suburb of Killiney in south County Dublin. At the time of my site inspection Seafield Road was heavily trafficked with road works in the vicinity appearing to divert traffic onto it.
- 1.2. The site contains a single storey vernacular stone cottage that appear to have been recently extended and much modified. This contains dormer level extensions to the rear. Recent modifications also include boundary, landscaping, and remodelling of site levels.
- 1.3. Access to the site is via a separate pedestrian access and vehicular entrance that opens onto the public domain of Seafield Road.
- 1.4. Running alongside the southern and rear boundary of the site is a pedestrian walkway that provides access to Killiney beach. This access was in use by a number of passing pedestrians at the time of my site inspection. To the north east of the site this pedestrian passage is crossed over by the Dublin to Wexford railway line.
- 1.5. The ground levels slope away from the site in a southerly direction and the surrounding area has a mature residential character.

2.0 Proposed Development

- 2.1. Retention permission is sought for the following:
 - Timber fencing to eastern and southern boundary of the property for a temporary period of 2 years.
 - The as completed boundary works and landscaping including granite dividing wall diving front garden and car park area.
 - The revised design for a Plant Room and Courtyard to replace refused Utility Room and Courtyard on east boundary.
 - All associated site works.

2.2. According to the Planning Application Form the gross floor space of existing buildings is 78.55m²; the gross floor space of proposed works is 8.4m² and the gross floor space of works to be retained is 86.95m².

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 27th day of June, 2022, the Planning Authority issued a notification to **refuse** permission for retention for the proposed development citing the following three refusal reasons:

- “1. *The timber fencing to eastern and southern boundary of the property to be retained for a period of 2 years, by reason of its overall scale, detailing and its rudimentary appearance as viewed from the south and east elevations and in particular from the Public Right-of-Way from Seafield Road to Killiney Strand is out of character with the area, would seriously injure the visual amenities of the area, fails to respect the established pattern of development in the vicinity, and would set an undesirable precedent for similar type of development in the area. The development to be retained is contrary to Specific Local Objective SLO 130 which seeks to ensure that development within this objective area does not significantly detract from the character of the area visually, and would therefore, be contrary to the proper planning and sustainable development of the area.*
2. *The revised design for the plant room and courtyard by reason of its design and appearance, would be out of character with the existing dwelling on site and adjoining residential development and would be aesthetically unsatisfactory and visually incongruous at this location and is contrary to Specific Local Objective SLO 130 which seeks to ensure that development within this objective area does not significantly detract from the character of the area visually, and would therefore, be contrary to the proper planning and sustainable development of the area.*
3. *The boundary works and landscaping works to be retained by reason of their scale, detailing and finish are out of character with the area, would not harmonise in colour, texture, height and size to match the existing streetscape,*

in particular the existing boundary treatment along the Public Right-of-Way would therefore be contrary to Section 12.4.8.2 Visual and Physical Impacts of the Dún Laoghaire Rathdown County Development Plan 2022 – 2028, and is contrary to Specific Local Objective SLO 130 which seeks to ensure that development within this objective area does not significantly detract from the character of the area visually. The development to be retained would therefore be 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 is the basis for the Planning Authority decision. It includes the following comments:

- Regard in the consideration of this proposal should include the requirements of SLO 130 and the Public Right-of-Way from Seafield Road to Killiney Strand.
- This proposal would not give rise to any undue residential amenity impacts.
- The proposal would give rise to significant injury on the visual amenities of the area.
- Concerns are raised that what is *in situ* does not correspond to what is present on site, i.e., in relation to east boundary.
- This proposal does not overcome reasons for refusal for P.A. Ref. No. D22A/0015.
- The plant room, courtyard with glass panel by reason of their overall height, length, proximity to boundaries and their appearance is out of character with the host dwelling and adjoining residential development. If permitted, it would be visually incongruous, negatively impact the area and depreciate properties in its vicinity.
- This development by reason of its scale, detailing and finish would be out of character with the area.
- The boundary and landscaping works are aesthetically unsatisfactory.
- No AA or EIAR issues arise.
- Concludes with a recommendation to refuse retention permission.

3.2.2. Other Technical Reports

Transportation: No objection, subject to safeguards.

Drainage: No objection.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. During the course of the Planning Authority's determination, they received 3 No. Third Party observations. The key issues raised in these submissions are:

- Adverse residential amenity impact for properties in its vicinity.
- Adverse visual amenity impact on the area.
- Development results in the devaluation of property values in its vicinity.
- Development oversail the boundaries of the site.
- Boundary treatments block visibility for pedestrians on the public laneway.

4.0 Planning History

4.1. Site

- **P.A. Ref. No. D22A/0015:** Planning permission was **refused** for the retention of a single storey utility room to the rear and new courtyard bedroom to the rear for the following stated reason:

"1. *The proposed development to be retained, by reason of its overall height, length, location and appearance, is out of character with the existing dwelling on site and adjoining residential development and is aesthetically unsatisfactory and visually incongruous at this location. The external finish is visually jarring with the finishes of adjoining / adjacent and surrounding finishes and fails to integrate with the style of adjoining development. The proposed development negatively impacts upon the amenities of the area and depreciates the value of property in the vicinity. The proposed development is contrary to the zoning*

objective of the area, which is 'A' to protect and / or improve residential amenity and is contrary to proper planning and sustainable development of the area."

Decision date: 03/03/2022.

- **P.A. Ref. No. D21A/0847:** Planning permission was **refused** for the retention to raise front granite boundary wall from 900 high to 1800 high including entrance gates for the following stated reason:

"1. *The proposed development would result in a lack of visibility between vehicles entering/exiting the vehicular entrance and pedestrians/cyclist/vehicles on Seafield Road which would result in the creation of a traffic hazard i.e., the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. Furthermore, the proposed development would be contrary to Section 8.2.4.9 Vehicular Entrances and Hardstanding Areas (i) General Specifications of the Dún Laoghaire Rathdown County Development Plan 2016-2022, and would, therefore, be contrary to the proper planning and sustainable development of the area."*

Decision date: 17/11/2021.

- **ABP-308815-20 (P.A. Ref. No. D20A/0556):** On appeal to the Board permission was **granted** subject to conditions for additions to an approved planning permission D20A/0242 to a single storey 2 bed semi-detached cottage. The additions are as follows: 1) Demolition of single storey extension and build new lounge/dining room to the south side of the cottage, (no change to roof ridge heights). 2) new first floor dormer to accommodate 2 bedrooms to east side of cottage. 3) Internal alterations. 4) roof lights to west roof together with associated site works.

Decision date: 10.03.2021.

- **P.A. Ref. No. D20A/0242: Split decision:** Permission **granted** for demolitions and extensions at ground floor level together with a new car opening and 2 car parking spaces in the garden. Permission refused for new dormer on the east side to form an upper floor together with new two storey extension.

4.2. **Site: Other - Enforcement**

- 4.2.1. **ENF09322:** Enforcement relating to non-compliance with Condition No. 1 and 6 of the Boards grant of permission under appeal case ABP-308815-20.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The relevant Development Plan is the Dun Laoghaire Rathdown County Development Plan 2022-2028. The site is zoned 'A' residential with the objective to: *“provide residential development and improve residential amenity while protecting the existing residential amenities”* and is located within an area subject to Specific Local Objective SLO 130 which seeks to: *“ensure that development within this objective area does not (i) have a significant negative impact on the environmental sensitivities in the area including those identified in the SEA Environmental Report, and/or (ii) does not significantly detract from the character of the area either visually or by generating traffic volumes which would necessitate road widening or other significant environmental improvements”*.
- 5.1.2. Section 12.3.7 of the Development Plan relates to additional accommodation in existing built-up areas with Section 12.3.7.1 relating to extensions.
- 5.1.3. Section 12.4.8 of the Development Plan relates to vehicle entrances and hardstanding.
- 5.1.4. Section 12.4.8.1 of the Development Plan sets out general specifications for residential developments.
- 5.1.5. Section 12.4.8.2 of the Development Plan deals with matters relating to visual and physical impacts of development, including boundaries.

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located in or does it adjoin a European Site. There is a proposed Natural Heritage Area (NHA) located c81m to the east (Dalkey Coastal Zone & Killiney Hill pNHA (Site Code: 001206)). There are no watercourses at or near the site. The site is located c108m to the west of Killiney Bay coastline as the bird would fly. Rockabill to Dalkey Island SAC (Site Code: 003000) is located c1.53km to the east of the site as the bird would fly.

5.3. EIA Screening

- 5.3.1. Having regard to the nature, scale, and extent of the development for which retention is sought, the site location within an established built-up urban area which is served by public infrastructure, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the development sought under this application. 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

- 6.1.1. The First Party's grounds of appeal submission can be summarised as follows:
- An overview of the recent planning history pertaining to the site is given.
 - The temporary fence has now been taken down. It is contended that it was erected to comply with health and safety requirements for the construction phase.
 - In relation to the completed boundary works and landscaping, including the granite dividing wall between the front patio area and the lower car park it is contended that the boundary wall has now been made good following the removal of the timber fence and shrubs have been planted along the boundary with the public lane.
 - When the site plan was prepared for P.A. Ref. No. D20A/0556 it was not realized that there was a greater difference in ground level between the approved patio and the car park levels. The solution to this was the dividing wall. The height of this boundary wall at 1100mm is compliant with Part M of Building Regulations.
 - In relation to the revised design for the plant room and courtyard to replace the refused utility room and courtyard on the east boundary during construction the need for additional utility room was identified and an additional 6m² area was built. It is further argued that it gives rise to no impact and is consistent with the proper planning and sustainable development of the area.

- In order to reduce the noise from the Dart a full height boundary wall to the courtyard was required. They are willing to reduce its height to 1100 above floor level.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The Board is referred to their Planning Officer's report.
- The grounds of appeal do not raise any new matters which would justify a change of attitude to the proposed development.

6.3. Observations

6.3.1. The Third-Party observation received by the Board can be summarised as follows:

- The Board is sought to uphold the decision of the Planning Authority as the grounds submitted by the Appellant are without substance and the proposed development does not accord with the proper planning and sustainable development of the area.
- The site location is sensitive to change.
- They are happy that the very unsightly timber fence has been removed but disappointed that a newly constructed mass concrete wall extending the full height of the old hedgerow has been erected in its place.
- The visual amenity of the area has been seriously damaged by the replacement of the old hedgerow that extended over the granite laneway boundary wall by the mass concrete wall on top of a historic granite wall.
- The concrete wall of the utility room is extremely damaging to the visual amenities of the area.

7.0 Assessment

7.1. Preliminary Comment

7.1.1. Having examined all documentation on file, including observation and responses received to the grounds of appeal, having reviewed the planning history, inspected the

site, and having had regard to the relevant local policies, I consider the key issues in the appeal to be as follows:

- Planning History and Principle of Development Sought
- Appropriate Assessment

7.1.2. I note to the Board that the Appellant as part of their appeal submission to the Board have submitted a suite of drawings which includes an updated eastern elevation and boundary landscape elevation.

7.1.3. Given the sensitivity of the site setting to change, the number of Third-Party submissions received by the Planning Authority during the course of its determination of this application alongside given the Third-Party Observation received by the Board, I consider it is appropriate that my assessment below is based on the documentation submitted with the planning application in the interest of natural justice and proper procedure on such matters.

7.1.4. Notwithstanding, should the Board be minded to consider the amendments to the development sought by the appellant in their appeal submission, I advise that it first seek new public notices and also seek by way of further information accurate ground levels of the site and its context through to accurate drawings setting out the development sought against what was permitted, what was implemented and what retention is sought for. Alongside more accurately detailing the site context.

7.2. Planning History and Principle of Development Sought

7.2.1. I firstly note that under the subject planning application permission is sought for the retention for a timber fence to the eastern and southern boundary of the property for a period of two years. I note at the time of my inspection only metal supporting uprights remained *in situ*. In addition, retention permission is sought for the completed boundary works and landscaping including granite dividing wall dividing the front garden and car parking area as well as for the revised design for the plant room and courtyard replacing a utility room that the public notices describe as being previously refused and a courtyard on the eastern boundary of the site.

7.2.2. As this application seeks retention permission, for clarity I note that the Development Management Guidelines for Planning Authorities, 2007, make it clear that, in dealing with applications for retention, they must be considered "*as with any other application*".

This is in accordance with planning law and with proper planning practice, in that all applications for retention should be assessed on the same basis as would apply if the development in question were proposed. Therefore, no account can, or should, be taken of the fact that the development has already taken place.

- 7.2.3. From inspection of the site and its setting the only positive that actually arises is the fact that the visual impact of the development on the host dwelling, a semi-detached originally single storey hipped roof cottage and on its setting. The visual impact of the development on the host dwelling and the amenity of the area is, in my view, added to by the fact that the site is located at a highly visible position within its landscape setting. This is due to the rising in ground level topography of Seafield Road which has a straight alignment to the north and south of the site; the generous width of Seafield Road and the adjoining pedestrian passageway to the south and rear that provides connectivity to Killiney Beach through to lack of visual buffers screening the development for which retention is now sought.
- 7.2.4. In this context the metal upright supports of the subject timber fence remain *in situ*, and it would appear that the timber panels at some recent point in time have been removed. Their appearance and the lack of harmony that exists between these uprights and what remains of the historic stone wall below is aesthetically out of character with the host dwelling and the boundary treatments that characterise the surrounding public domain the site forms part of.
- 7.2.5. When taken together with other components of the development for which retention is sought for. In particular the completed boundary works fronting onto as well as visible from the public and the utility room. This attaches to and is built onto a boundary wall that adjoins the public domain these posts. Should they remain and be infilled with timber fencing would be a type of boundary treatment that fails to harmonise and respect original host dwelling and its setting. To permit such an inferior quality and site inappropriate boundary treatment in a visual setting that includes an Architectural Conservation Area; a highly prominent location on a heavily trafficked road and a much-used protected under the Development Plan public right-of-way passageway for from Seafield Road to Killiney Beach, an important amenity in this suburban setting, would result in the diminishment of the visual amenities of the area.

- 7.2.6. Moreover, the utility room for which retention is sought is poorly resolved, is out of scale, visually overtly dominant and its external envelope is visually at odds with the period stone wall it projects above. The utility room is also finished in a palette of materials that lacks quality and lacks visually harmony with the original stone wall structure or indeed the palette of materials of the host dwelling. Further, its overall built form, in particular its height and width, adds to its visual overbearance as viewed against the host dwelling and as viewed from the public domain. In particular the adjoining much used public right of way passageway that provides connectivity to Killiney Beach. Where its poor-quality finishing through to its visually imposing height and width that together with the other boundary treatments, including the concrete and timber insertion boundary treatments. Which I consider are also excessive in their height as well as visually jarring. In addition, when viewed alongside the historic stone wall that remains, in my view, they result in an overpowering sense of claustrophobia containment to the western side of this passageway alongside are visually out of context to the boundary treatments characterising the host dwelling and its setting.
- 7.2.7. Further, the utility development as constructed is not consistent with the drawings approved under ABP-308815-20 nor are they consistent with the drawings submitted with this application for which retention is sought. With this including the glass panel above a high rendered concrete block wall.
- 7.2.8. It is of note that recently under P.A. Ref. No. D22A/0015 was refused permission for the retention of the utility room extension for which permission is now effectively sought.
- 7.2.9. The given reason for its refusal, i.e., the height, length, location, and appearance were considered to be out of character with the existing dwelling as well as the adjoining property. It was also considered to be visually incongruous and aesthetically unsatisfactory failing to integrate in a satisfactory manner with its setting.
- 7.2.10. Moreover, this reason for refusal also considered that not only would this utility room extension negatively impact on the amenities of the area, but it would also devalue properties in its vicinity.
- 7.2.11. The amendments to the utility in order to accommodate what is now being referred to as a plant room and an amended courtyard on the eastern boundary cannot in my

view be considered as reasonable or balanced solution that overcomes the recent refusal of the retention of this utility/plant room structure.

- 7.2.12. Of concern this application does not seek in any way to overcome the reasons for refusal for the retention development sought under P.A. Ref. No. D22A/0015 and what is clear to see is that the concerns given for refusal are now unfortunately apparent in the context of the host dwelling and its sensitive to change as well as highly visually prominent setting from the works carried out on site by the applicant.
- 7.2.13. Also, of concern in my view is that the drawings provided with this application and on appeal by the First Party do not satisfactorily support that due care and attention was taken during construction works of any of the development works along the historic stone boundary wall to safeguard its structural stability and to preserve as much as possible of it. Indeed, the documentation and the design put forward shows no regard was had to ensuring that any boundary solution would respect and harmonise with this historic boundary wall never mind appropriately safeguard and preserve its positive contribution to the host dwelling, its setting and in particular its appreciation from the adjoining protected public right of way passageway.
- 7.2.14. Similarly, this lack of regard to the historic stone wall and achieving a site sensitive intervention to any boundary amendments and/or alterations is carried through to the interventions that have occurred on the Seafield Road.
- 7.2.15. From this road it is also clear that views into the site show that the historic stone wall has been plastered over and a contemporary boundary treatment as well as address is not in place.
- 7.2.16. In addition, from the road unsympathetic materials are used for pillars and for capping with the wall now having a more contemporary aesthetic and with the historic stone steps physically, visually, and functionally disassociated from the historic stone wall.
- 7.2.17. Examination of the planning history also shows that permission was also refused for the raising of the granite boundary wall from 900mm high to 1800mm including entrance gates (Note: P.A. Ref. No. D21A/087). I note that the principal reason for this related to traffic hazard concerns. Of concern it would appear that these boundary amendments together with rendering of the rear roadside boundary wall and the addition of brick piers through to concrete capping have been provided in recent times. It is unclear in my view from inspection of the site that the required sightlines have

been achieved and the overall traffic hazard concerns raised by the Planning Authority in their reason for refusing the development sought under P.A. Ref. No. D21A/087 has been satisfactorily addressed under this application. This includes the lack of demonstration that at minimum the required sightlines are achieved.

7.2.18. Of further concern the Board granted permission under ABP-308815-20 (P.A. Ref. No. D20A/0556) subject to conditions for a development that included additions and alterations including Condition No. 6 which set out that no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of permission.

7.2.19. Yet the utility room alongside other works for which retention by way of this application are now sought have been carried out in the absence of prior consent even where it was clear through previous recent planning applications that certain works were not deemed to be appropriate and were refused. It would appear that the applicants had little regard, if any, to these refusals and these developments were implemented regardless without any meaningful attempt to address their reasons for refusal.

7.2.20. Whilst the general principle of residential development is deemed to be acceptable on land zoned 'A', it is concerning that this development for which retention is sought, relates to developments that have by and large been recently refused for a number of reasons including significant visual amenity impact concerns on its setting. Which of relevance is provided with more protection under Objective SLO 130 of the Development Plan that in part seeks to ensure that development within this objective area does not significantly detract from the character of the area visually.

7.2.21. I concur with the Planning Officer in their report that this development is aesthetically unsatisfactory, is visually incongruous through to its use of materials are visually jarring. With the latter being such that I also concur that it would negatively impact on the visual amenities of the area but also its design quality in terms of outcome is at such odds with its immediate setting that it has the potential to depreciate property in its vicinity through to result in an undesirable precedent for other unsympathetic developments in this sensitive to change area.

7.2.22. Moreover, I consider that the retention of the boundary treatments and the utility room would negatively impact on the adjoining protected public right-of-way passageway that runs from the south to the rear of the site by way of its visual overtness,

overbearing appearance, jarring and unsympathetic use of boundary treatments alongside visually diminishing the positive contribution that the historic stone wall structure makes to the adjoining public realm. The drawings also do not show the actual oversailing and encroachment of these works on the public domain.

7.2.23. I also consider the loss of deep soil, landscaping and surfacing of the front and side garden are also unsympathetic to the site setting where the site is situated in proximity to a Natura 2000 site and where it is unclear if appropriate mitigation measures to the required standards have been incorporated as part of the works for the significant areas of paving that there is no evidence to support they are permeable. On this point I note the site is within c81m to the east of the Dalkey Coastal Zone & Killiney Hill pNHA (Site Code: 001206).

7.2.24. Based on the above considerations I am not satisfied that the proposed development is acceptable nor is it one that is in keeping with the proper planning and sustainable development of the area.

7.3. Appropriate Assessment Screening

7.3.1. Having regard to the nature and scale of the development for which retention is sought under this application, the location of the site within an adequately serviced urban area, the physical separation distances to European Sites, and the absence of ecological and/ or hydrological connections, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

8.0 Recommendation.

8.1. I recommend that retention permission be REFUSED. The reasons and considerations set out below are as per the Planning Authority's notification for refusal of retention permission. I consider that the first reason of refusal should be retained by the Board as part of any refusal as a precaution.

9.0 Reasons and Considerations

1. The timber fencing to eastern and southern boundary of the property to be retained for a period of 2 years, by reason of its overall scale, detailing and its rudimentary appearance as viewed from the south and east elevations and in particular from the Public Right-of-Way from Seafield Road to Killiney Strand is out of character with the area, would seriously injure the visual amenities of the area, fails to respect the established pattern of development in the vicinity, and would set an undesirable precedent for similar type of development in the area. The development to be retained is contrary to Specific Local Objective SLO 130 which seeks to ensure that development within this objective area does not significantly detract from the character of the area visually, and would therefore, be contrary to the proper planning and sustainable development of the area.
2. The revised design for the plant room and courtyard by reason of its design and appearance, would be out of character with the existing dwelling on site and adjoining residential development and would be aesthetically unsatisfactory and visually incongruous at this location and is contrary to Specific Local Objective SLO 130 which seeks to ensure that development within this objective area does not significantly detract from the character of the area visually, and would therefore, be contrary to the proper planning and sustainable development of the area.
3. The boundary works and landscaping works to be retained by reason of their scale, detailing and finish are out of character with the area, would not harmonise in colour, texture, height and size to match the existing streetscape, in particular the existing boundary treatment along the Public Right-of-Way would therefore be contrary to Section 12.4.8.2 Visual and Physical Impacts of the Dún Laoghaire Rathdown County Development Plan 2022 – 2028, and is contrary to Specific Local Objective SLO 130 which seeks to ensure that development within this objective area does not significantly detract from the

character of the area visually. The development to be retained would therefore be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

1st day of December, 2022.