



An
Bord
Pleanála

Inspector's Report

ABP-314839-22

Development	Retention for new wall, piers and sliding gate on lane boundary of a farm.
Location	Boranaraltry Lane, Ballybrack, Co Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D22A/0544
Applicant(s)	Maxim Strimby
Type of Application	Retention
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal
Appellant(s)	Maxim Strimby
Observer(s)	None
Date of Site Inspection	13 th July 2023
Inspector	Joe Bonner

1.0 Site Location and Description

The appeal site is located c2km west of Glencullen village in the Dublin Mountains. It is an irregularly (quadrilateral) shaped area of farmland on the southern side of Boranaraltry Lane c220m west of its junction with the R116 and has a stated area of 0.84ha. Boranaraltry Lane runs downhill in a south-westwards direction towards the floor of the Glencullen valley, passing the site before crossing the Glencullen river c240m to the south-west before terminating on Glencullen Mountain. The Wicklow Way follows Boranaraltry Lane, continuing further up the mountain through a conifer plantation and is part of a long distance walking trail.

- 1.1.1. The site slopes downhill by c8m from north-east to south-west along its c135m road frontage and also slopes downhill from the road in a south-eastern direction towards the Glencullen River that rises in Glendoo Mountain, before eventually joining the Dartry River west of Bray. An earth embankment c0.8m in height topped with sheep and barbed wire fencing marks the roadside boundary to the west of the wall and gate that facilitates views through and across the site to the south towards Glencullen Valley and Mountain, while tall hedging is growing on top of the embankment to the east of the wall and gate and restricts views into and across the land.
- 1.1.2. By setting the wall back from the road edge by 2.06m, a parking area/layby has been created, that does not form part of the application. Other works and structures on the site that do not form part of the application and are not referenced in any of the application or appeal documentation include the raising and levelling of an area of land immediately inside of the access gate with stone, and the erection of a shed to the east of the gate, while the construction of a low wall has also commenced inside of the field. A mound of rubble stone is also evident close to the shed.
- 1.1.3. There is a farm complex and a loose cluster of dwellings to the west and north of the site, with the closest house c60m to the west. Another loose cluster of dwellings is located further north-east around the R116 close to its junction with Boranaraltry Lane. The front boundary of the nearest house to the north-east is marked by a mature hedge, natural stone wall and high solid gate, while an earth embankment topped with a solid wooden fence has been erected on the roadside boundary of the

land between that house and the application site, all of which eliminates views at this location.

2.0 Proposed Development

2.1. The public notices have described the development as retention permission for:

- New concrete block wall and piers and a sliding metal gate on the lane boundary of a farm.

2.1.1. The combined length of the wall and gate seeking retention is 17.6m, while the off-centre gate opening is 6.42m wide and is fitted with a 6.7m wide sliding gate, that is up to 1.8m in height above ground level at its western end. The overall structure includes five piers, and the main body of the wall to the west of the gate is c1.66m in height including capping of c0.1m, while the tops of the piers are up to 1.9m above ground level.

2.1.2. The sliding roller gate is a heavy duty painted steel gate with 100mm top and bottom horizontal rails that are connected by a series of vertical steel columns including 150mm thick columns at each end and another located 3.6m from the eastern end of the gate.

3.0 Planning Authority Decision

3.1. Decision

A decision to refuse permission was issued by Dun Laoghaire Rathdown County Council on the 16th of September 2022, for the following reason:

It is considered that the development proposed for retention is not in keeping with the established visual character at this location on Boranaraltry Lane.

Furthermore, it is also considered that the development proposed for retention is detrimental to the character of Boranaraltry Lane and negatively impacts on the preserved views at this location. The proposed development is therefore, contrary to, inter alia, the content of Section 4.3.1 (that relates to the Glencullen Local Area Plan), Section 8.4.5 and Section 12.3.10.1 of the Dún

Laoghaire-Rathdown County Development Plan 2022-2028, and consequently the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Officer's Report

The Planning Officer's Report is the basis for the Planning Authority's decision to refuse permission and includes the following:

- It outlines the policy context in the County Development Plan 2022-2028, which states '*any development within the Glencullen LAP area should take account of the 2007/2013 LAP until such time that a new Plan is adopted*' and should also have regard to the Glencullen Design Guide.
- The proposal is a stark design solution in comparison to the previous setting which was a standard metal gate and natural hedgerow.
- Boranaraltry Lane is part of the Wicklow Way, is well known and is characterised by a variety of different boundary treatments.
- The objective of Policy Objective GIB6 is '*to prevent development, which would block or otherwise interfere with views and/or prospects*'.
- The development negatively impacts the preserved view towards Glencullen Mountain and Valley, in particular.
- The road frontage is located within lands designated as a 'Landscape Protection Area' and a 'Frontage Development Exclusion Area' in the Glencullen Local Area Plan.
- Policy LAN8 'Landscape Protection Zones' and Policy HSG10 'Frontage Development Exclusion Zones' of the Glencullen Local Area Plan are relevant.

3.2.2. Other Technical Reports

- The Drainage Planning Report of the 15th of August 2022 had no objection to the proposed development.

- The Transportation Planning Report of the 14th of September 2022 recommended that further information be requested, which can be summarised as: -

- Justify the need for the 6.42m wide entrance which is substantially wider than the normal range of a field gate entrance it purports to replace, including drawings showing entry and exit movements from the field.
- The local (rural) road is deemed to have a speed limit of 50kph and TII standards apply as this is not an urban area where DMURS apply. Unobstructed 70m visibility splays are required in each direction, to the nearest side of the road, and set back 2m from road edge.
- Reduced sightlines may be acceptable if a traffic speed survey is provided demonstrating lower traffic speeds on the road.

3.2.3. The Planning Officer's Report also concluded that No EIA / Screening is required, and that AA is not required as the development would not significantly impact upon a Natura 2000 Site.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

Appeal Site

4.1. The following site specific planning history is relevant.

4.2. **Warning Letter ENF 13422** issued on 17th May 2022 in respect of the creation of the vehicular entrance and boundary wall without the benefit of planning permission and which does not constitute exempted development.

4.3. **ABP-304435-19 (P.A. Ref. D19A-0117)** Permission refused by the Board on the 7th of November 2019 for 'Construction of dwelling and domestic garage' to Jana Keane and Stuart Thompson, for four stated reasons including:

- Contrary to zoning, undesirable precedent.
- Impact on views, prospects, and the natural heritage of the area, would interfere with the character of the landscape and objective 'to preserve Views' along Boranaraltry Lane identified in the development plan.
- Absence of a Natura Impact Statement and potential significant effect on Knocksink Wood Special Area of Conservation (Site Code: 000725), or any other European site cannot be excluded.

4.4. **P.A. Ref. D16A-0891** Permission was refused by the Planning Authority on the 31st of January 2017 for a house for Jana Keane including a 3.5m wide gate and a recessed front boundary wall of c0.9m in height, to be faced with local granite, for five reasons including:

- Frontage residential development will not be permitted along designated sections of road. Frontage development exclusion areas include the roadside boundary of the subject site.
- The site is located within a Landscape Protection Zone. Policy LAN 8 states that within this zone 'special protection is given to the undisturbed architectural landscape as a whole'. There is an objective 'to preserve Views' along Boranaraltry Lane.
- Field patterns should be conserved, and it is Council policy to protect and encourage enjoyment of views.
- The development would interfere with the character of the landscape and with a view of special amenity value which it is necessary to preserve.
- Inadequate information provided regarding sightlines.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown Development Plan 2022-2028

- 5.1.1. The relevant Development Plan is the Dun Laoghaire Rathdown Development Plan 2022-2028, which came into effect on 21st April 2022.
- 5.1.2. The site and surrounding area are zoned 'Objective G' with a stated objective '*to protect and improve high amenity areas*' with 'Open Space' being the only land use that is 'Permitted in Principle' while 'agricultural buildings' are 'Open for Consideration'.
- 5.1.3. Map 12 of the Development Plan indicates that 'The Wicklow Way' runs along the entirety of the road frontage where it is also an objective 'To Preserve Views'.
- 5.1.4. In Section 8.4.3 'Policy Objective GIB4: High Amenity Zones there is a presumption to resist development not directly relevant to its existing use for agriculture, mountain, or hill farming.
- 5.1.5. In Section 8.4.5 'Policy Objective GIB6: Views and Prospects' seeks to prevent development, which would block or otherwise interfere with Views and/or Prospects.
- 5.1.6. Section 12.3.12 addresses 'Rural – Non-Residential Development' and applications will be assessed under the following criteria:
- Compliance of the proposed use with the zoning objective of the site.
 - The need for such a use within the rural area.
 - Potential negative visual impacts
 - Vehicular access arrangements
- 5.1.7. Section 12.4.8.1 provides that vehicle entrances and exits shall be designed to avoid traffic hazard for pedestrians and passing traffic and that the Council will have regard to available sightlines.
- 5.1.8. Section 12.4.8.2 'Visual and Physical Impacts' states that vehicular entrances should not normally dominate a property's frontage and that boundary walls, entrance piers and gates shall normally be finished to harmonise in colour, texture, height and size to match the existing streetscape.

- 5.1.9. Section 12.3.10.8 'Vehicular Entrances' addresses the nature of boundary walls, sight lines as well as the landscape and visual amenity aspects of boundaries, where hedging, earth banks and stone walls are considered suitable finishes.
- 5.1.10. 'Glencullen Valley' is identified as a highly sensitive landscape in which any development must be handled with care.

5.2. Natural Heritage Designations

- 5.2.1. The site is located c1km north of two upland designated areas – the Wicklow Mountains SPA (site code 002122) and the Wicklow Mountains SAC (site code 004040). The Glencullen River that runs c215m south and west of the wall and gates flows through the Knocksink Woods SAC (site code 000725), c2km south-east of the site and downriver.

6.0 The Appeal

- 6.1.1. The decision of DLRCC to refuse retention permission has been appealed by the applicant.

6.2. Grounds of Appeal

- 6.2.1. The following is a summary of the main issues raised in the appeal:
- The Planning Authority did not make the applicant aware that he needed planning permission to change the gate and until a Warning Letter was issued, he thought the works were exempted development.
 - The applicant could not turn his vehicles into the field through the original gate as it was not adequate, and he was frequently blocking traffic, while accessing the field.
 - In order to maintain the usage of the field, some balance needs to be found between the high amenity zoning and its agricultural use for the rearing of sheep, while the access must also be safe for all users of the lane.
 - A new entrance needed to be set back and wide enough for the stated use.
 - The outer edge of the new wall is set back 2.06m from the road edge allowing the applicant to park at the road edge while opening the gate.

- The applicant tried to build and copy exactly as his neighbours had done.
- All adjacent fields are used for agricultural purposes.
- Lands zoned Objective G do not refer to Agriculture whereas Objective B zoned lands do.
- If the 'Frontage Development Exclusion Area' policy from the Glencullen LAP is strictly adhered to, then no access gates can be provided.
- The applicant is willing to meet the council planners and to alter the gates, walls and piers, on the understanding that he can still have an adequate vehicular access in order to use the field for rearing sheep.
- The Board should indicate a reasonable timeframe, during which modifications to the entrance can be agreed between the applicant and the planning authority.
- The applicant is willing to carry out whatever works are necessary to help retain the character of the lane and the views from it.

6.3. **Planning Authority Response**

- 6.3.1. The Planning Authority referred the Board to the previous Planner's Report and stated that the grounds of appeal do not raise any new matters which, in the opinion of the Planning Authority, would justify a change of attitude towards the proposed development.

6.4. **Observations**

- 6.4.1. None

7.0 **Assessment**

- 7.1.1. Having examined the application details and all other documentation on file, including the information received in relation to the appeal, having inspected the site, and having regard to the relevant local planning policies, I am satisfied that the main issues in this appeal are those raised in the Planning Authorities reason for refusal and the grounds of appeal. The issues can be dealt with under the following headings:

- Justification for the width of entrance and gate
- Design, Visual Impact and Amenity – Wall and Gate
- Traffic Safety
- Appropriate Assessment

7.2. Justification for the width of entrance and gate

- 7.2.1. In the appeal, the applicant claims that the original gated entrance was inadequate, as he could not turn his vehicles into the field when bringing hay or sheep in or out, and that its agricultural use would have become unviable due its unsafe condition. He also stated that he frequently blocked traffic because he had to park on the public road and that he can now park along the roadside, while opening the gate.
- 7.2.2. Photo 1 in the body of the planning appeal shows the original gate and it was noted during the site visit that there are several similar agricultural gates providing access to other agricultural fields on Boranaraltry Lane, that measure 3.6m in width and 1.2m in height. The sliding gate subject to this application for retention is 6.7m in length, is placed behind a 6.42m wide opening, is up to 1.8m in height and I consider it to be more comparable to an industrial than an agricultural gate.
- 7.2.3. No information or specifications have been provided in respect of the largest type of vehicle and trailer that are used to transport sheep, hay or water on or off site, or the turning radii required for those vehicles. On the date of the site visit a 4.6m long Ifor Williams sheep trailer was parked on the site.
- 7.2.4. I am satisfied having reviewed the information provided by the applicant, which is very limited, and having visited the site, that a 6.42m wide entrance (and 6.7m long gate) is in excess of what is needed to service the needs of this small agricultural landholding and that an agricultural entrance of a reduced width, with a gate that is set-back to an appropriate distance from the road edge would be sufficient to provide adequate access to the site.
- 7.2.5. While the applicant has indicated that he is willing to amend the gate and while a gate of some form will be required to secure access to the field, I do not consider that amendments to the access and gate can be addressed by way of a condition as it may require significant design changes to be made that could in effect constitute an entirely different entrance arrangement, the impact of which, including on sight

lines and traffic safety, can only be determined when adequate information has been provided by the applicant.

7.3. Design, Visual Impact and Amenity – Wall, Piers and Gate

- 7.3.1. The impact of the design and scale of the wall, piers and gate is the basis for the refusal reason issued by the planning authority and constitutes the main issue in the appeal.
- 7.3.2. The combined length of the wall and gate is 17.6m while the structure includes five piers. The main body of the wall to the west of the gate is c1.66m in height including capping of c0.1m, while the tops of the columns are up to 1.9m above ground level. The gate is up to 1.8m in height. In contrast, the earth embankments along the road frontage are c0.8m in height and topped by fencing or hedging.
- 7.3.3. I am satisfied that the industrial style and heavy duty roller gate at up to 1.8m in height above ground level, is out of keeping with the scale, form and style of agricultural gates in the area, is not necessary and is an excessive response to the need to provide secure access to land.
- 7.3.4. The only reference in the appeal to the construction of the wall is that by setting it back from the road edge, it allows the applicant to park in the layby that has been created, while opening the gate. The wall serves no purpose related to agriculture, is out of keeping with the prevailing pattern of development in the area due to its height and length, and like the gate is an excessive response to the need to enclose land, which could have been addressed by retaining the original embankment or the construction of a new low level and set-back embankment.
- 7.3.5. The wall is currently finished with un-plastered blocks laid flat, with concrete capping. No reference has been made in the drawings to proposed wall finishes and permission has not been sought to complete the wall. It appears from the application drawings as if it is intended to leave the wall in an unfinished state. I also noted that five rows of blocks on the westernmost end of the wall not actually cemented in place and observed that they could fall onto the public road and constitute a traffic hazard.
- 7.3.6. The wall, piers and gate have been erected in a very sensitive location along the road frontage of Boranaraltry Lane which forms part of the Wicklow way and where

Map 12 of the Development Plan contains an objective to preserve views, while Policy Objective GIB6: Views and Prospects seeks to prevent development, which would block or otherwise interfere with Views and/or Prospects. Views and prospects of Glencullen Valley and Glencullen Mountain have been blocked and interfered with as a result of the construction of the wall and gate.

- 7.3.7. I am satisfied that the development is out of keeping with the character of the area, notwithstanding the enclosure of the roadside boundary of the neighbouring land to the immediate northeast, by way of an embankment topped by a timber fence and a solid gate.
- 7.3.8. I am also satisfied that the overall design and appearance of the gate and wall, including their height, length and the nature of the material finishes, have had a significant negative impact on local views and prospects and on the qualities of the Wicklow Way, constitutes a form of development that is out of character with the prevailing pattern of development in the area and has resulted in a visually discordant feature that is detrimental to the visual amenity of the surrounding area.
- 7.3.9. I am satisfied that the retention of the gate and wall in their current form, would be inappropriate, notwithstanding the need to provide vehicular access and enclosure of the land to facilitate its continued use for agricultural purposes.

7.4. Traffic Safety

- 7.4.1. The appeal makes several references to the provision of adequate vehicular access, without providing any supporting technical information. It also refers to the previous entrance being inadequate to the point where the applicant was often blocking other traffic on the lane as he could not access the field and he would need to reverse all the way back to the end of the lane in order to let such traffic pass. The applicant states that if he had not created the new entrance the agricultural use of the field would have become unviable as the condition of the previous access was unsafe for both him and other users of the laneway.
- 7.4.2. Boranaraltry Lane onto which the access is provided is narrow but straight along the road frontage and as it is not a through road, there is minimal traffic passing the site. A number of farms and houses are located on the lane. Due to its width, two vehicles are not capable of passing on the lane and the traffic speeds would be considered to

be low. On the occasion of the site visit, no vehicles were noted to pass the site, however, one pedestrian walking along the Wicklow Way was observed.

- 7.4.3. The applicant states that vehicles park on the layby while the gate is being opened. This would involve vehicles having to carry out difficult reversing manoeuvres involving trailers on or adjacent to the public road, while similar movements would be necessary on exiting the site while manually locking the gate. I consider that these movements would interfere with the safety and free flow of traffic on the public road and would obstruct road users, whereas a narrower entrance with the gate set back further from the road than the current gate would eliminate the need to park on the road when opening and closing the gate.
- 7.4.4. The absence of sight lines was referenced in the planning authorities transportation planning report among other concerns, which recommended that further information be sought including that the setback from where sight lines must be measured is 2m from the road edge. The main body of the wall is setback 2.06m from the road edge. The height and the position of the eastern and westernmost parts of the wall including the curved walls and the piers restrict sightlines in each direction and I am satisfied that the as constructed entrance and associated boundary walls and piers would give rise to a traffic hazard.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the separation distance between the site in question and the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.
- 7.5.2. No account has been taken of other works that have been carried out and which have been outlined in paragraph 1.1.2 above.

8.0 Recommendation

I recommend that permission is refused for the following reasons.

9.0 Reasons and Considerations

1 It is the Policy Objective GIB6 of the Dún Laoghaire-Rathdown County Council County Development Plan 2022-2028 to prevent development which would block or otherwise interfere with views or prospects and there is an objective 'to preserve views' along Boranaraly Lane identified on Map 12 of the Development Plan. It is considered that the development, by reason of the excessive height, width and design of the gate, wall and piers, interferes with the character of the landscape and with a view which it is necessary to preserve and protect under Policy Objective GIB6 of the Development Plan. The retention of the proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2 It is considered that the development would endanger public safety by reason of traffic hazard because sight lines are restricted in each direction from the entrance, while the limited setback of the access gate from the roadside edge requires vehicles entering and exiting the site to park on the public road to the extent that the movements of vehicles accessing and egressing the site would interfere with the safety and free flow of traffic on the public road by reason of obstructing road users.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Joe Bonner

Senior Planning Inspector

3rd August 2023