



An
Bord
Pleanála

Inspector's Report ABP-319993-24

Development	Retention of concrete yard and construction of surface water drainage infrastructure and a soak pit with all associated site works.
Location	Ounavarra, Clonee Road, Lucan, Co. Dublin, K78 HP90.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	FW24A/0145E.
Applicant(s)	Steven McEleney.
Type of Application	Permission for Retention.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party.
Appellant(s)	Steven McEleney.
Observer(s)	None.
Date of Site Inspection	6 th September 2024
Inspector	Ciaran Daly

1.0 Site Location and Description

- 1.1. The subject site is located off Clonee Road, a rural road, outside Lucan in County Dublin. Ounavara House and grounds has a stated site area of 3.8ha. and consists of the two storey large 18th century dwelling, gardens, grassland areas, orchard type area, sheds and hard standing area (and drainage infrastructure), single storey outbuildings, tree covered area and long tree lined driveway and single storey gate lodge. There is what appears to be a new vehicular entrance to the front grass area from the public road with stone piers and pillars constructed. The subject site is well screened to the rear and from the south with greater visibility close to the public road near the vehicular access. The site slopes uphill somewhat from south to north.
- 1.2. Adjacent to the site to the north is located what were previously parts of the grounds of Onunavara House and it consists mainly of a number of warehouses and associated buildings on a landscaped site with large grass area and some mature trees that appears to be in use as a distribution centre for retail goods and adjacent to the neighbouring site to the north and west are agricultural fields. Adjacent to the south are park type lands with mature trees which appear to be associated with a neighbouring dwelling and which lead down to the River Liffey. Located directly opposite the site entrance is a forest type area which appears to be associated with Mount Pleasant Country House, a protected structure (R.P.S. no. 719).

2.0 Proposed Development

- 2.1. The proposed development seeking retention permission is for:
- a concrete yard / hardstanding area of (c. 656 sq.m. as stated) and associated works above and below ground,
 - surface water drainage infrastructure and a soak pit.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council refused permission for retention of the proposed development for the following reasons:

1. The subject site is within the 'HA' zoning objective under the Fingal Development Plan, 2023-2029 the objective of which is to 'protect and enhance high amenity areas'. The vision for this zoning objective seeks to protect these highly sensitive and scenic locations from inappropriate development and to reinforce their character, distinctiveness and sense of place. Concrete/asphalt areas are not permitted in principle within the 'HA' zoning. The scale of the works proposed for retention permission do not reinforce the character and distinctiveness of the locality and materially contravene Objective GINHO67 and the 'HA' zoning objective assigned to the subject lands within the Fingal Development Plan 2023-2029 and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The subject site is located in an area categorised as highly sensitive landscape, Blanchardstown South. The development introduces incongruous elements within the landscape, resulting in the loss of vegetation, and interferes with the character of highly sensitive areas that the Development Plan seeks to preserve, thus materially contravening Objective GINHO59 and GINHO58 of the Fingal County Council Development Plan 2023-29.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Fingal County Council Planning Reports form the basis of the decision. The report identifies the site as being located within a 'HA – High Amenity' area where there is a vision to protect such highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. The report notes that under the 'HA' site zoning uses such as agri-business, cargo yards and concrete/asphalt areas are not permitted uses and so the proposal is treated as a "non-conforming use". The concrete yard was found not to reinforce the character and distinctiveness of the area given its position on a ridge line and the supporting documentation lacked detail in relation to agricultural works undertaken on the site, and that the existing sheds and buildings cover a significant area of ground.

3.2.2. Other Technical Reports

- Transportation Planning Section: no objection subject to condition.
- Water Services: no objection subject to conditions.
- Environment Section: no objection.

3.2.3. Conditions

- Water Services included a condition in relation to locating the soakaway over 5m from existing structures and 3m from any boundary.
- Transportation Planning included a condition that the use be restricted to agricultural and forestry uses only.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

- None.

4.0 Planning History

Subject Site

FW24A/0306E Retention Permission refused by the Planning Authority on 11th September 2024 (currently within appeal period) for one agricultural entrance and site development works above and below ground. The first reason for refusal related to impact on the landscape character and protected views at this location being a material contravention of Objective GINHO60 and the 'HA' zoning objective. The second reason for refusal related the incongruous elements within the landscape materially contravening Objectives GINHO59 and GINHO58 of the CDP.

FS5W/005/24: Declaration by the Planning Authority under section 5 that the provision of an agricultural shed measuring 256 sq.m. is development and is exempted development.

ENF23-188B: Enforcement notice (referred to in the Planner's Report) issued by Fingal County Council in relation to agricultural shed and concrete yard / hardstanding area.

FW23A/0353 Declared withdrawn following request for Additional information was requested on 18th January 2024 in relation to the application for a new single storey agricultural shed (206.8sqm.) over an existing yard and single storey building.

FW17B/0012: Permission was granted by the Planning Authority for Change an existing window to double doors and erect railings to form a balcony at first floor level on the roof of a previously permitted single storey stone portico (Reg. Ref. FW16B/0109).

FW16B/0109: Permission was granted by the Planning Authority for Single storey stone portico to the front, stone surrounds on the windows to the front and side (north) elevations and form a new door ope in the side (south) elevation.

FW16B/0012: Permission was granted by the Planning Authority to demolish single storey extension to the rear and construct new single storey extension to the side and rear, with revised roof profile and ancillary siteworks all at the gate lodge.

FW14A/0043: Permission was granted by the Planning Authority for replacement Waste Water Treatment Plant and associated site development works.

Adjacent Site: Hillview

FW24A/0134: Currently under appeal (ABP-319896-24) following the Planning Authority's decision to refuse permission for Retention of a warehouse shed extension, garage, concrete apron, prefabricated office and storage container, located to the immediate north of the subject site.

FW14A/0043: Permission was granted by the Planning Authority for a replacement wastewater treatment plant.

5.0 Policy Context

5.1. Local Plans

Fingal County Development Plan 2023-2029 (the CDP)

5.1.1. The zoning objective for the subject site is 'HA'-High Amenity which seeks to '*protect and enhance high amenity areas*'. The site location is in a highly sensitive landscape, namely '*Highly Sensitive Landscape: Blanchardstown South*'. There is an objective to preserve views marked along the road in the vicinity of the site to the north of the vehicular entrance.

5.1.2. The site is located within Noise Zone D of Dublin Airport, is part of the Liffey Valley SAAO and is located in relatively close proximity to Liffey Valley PNHA.

Objective GINHO59 relates to development criteria for sensitive areas which seeks to ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas.

Section 9.6.15 deals with the preservation of views and prospects and Section 9.6.17 relates to High Amenity Zoning. Objective GINHO60 relates to Protection of Views and Prospects Protect from inappropriate development.

Objective GINHO67 seeks that development reflects and reinforces the distinctiveness and sense of place of High Amenity areas, including the retention of important features or characteristics.

5.1.3. Section 9.6.17 details that these "*consist of landscapes of special character in which inappropriate development would contribute to a significant diminution of landscape value in the County*". Policy GINHP28 relates to the protection of high amenity areas from inappropriate development to reinforce their character, distinctiveness and sense of place. Section 14.18.3 deals with Principles for Development for Landscapes.

5.1.4. Section 14.15.5 relates to agricultural development. Objective DMSO102 relates to the assessment of agricultural development and includes that in relation to buildings the extent to which they can be integrated into the landscape will be a relevant factor in assessing acceptability.

5.2. Natural Heritage Designations

5.2.1. In relation to designated conservation sites, the subject site is located c.158m from Liffey Valley Proposed Natural Heritage Area (PNHA) (site code 000128) to the south, east and west, is c.1.1km from the Royal Canal PNHA (site code 002103) to

the north, is c.2.2km from the Rye Water Valley / Carton Special Area of Conservation (SAC) and PNHA (site code 001398) to the west, is c.3.1km from the Grand Canal PNHA (site code 002104) to the south, is c.10.2km from Lugmore Glen PNHA (site code 001212), is c.10.3km from Slade of Saggart and Crooksling Glen PNHA (site code 000211), is c.11 km from Dodder Valley PNHA (site code 000991).

5.3. EIA Screening

- 5.3.1. See completed Forms 1 and 2 appended to this report. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, or an EIA determination therefore is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The main points can be summarised as follows:

Refusal Reason No. 1

- The maintenance activities associated with the yard for agricultural and forestry purposes contribute towards protecting and enhancing the landscape thereby aligning with zoning object 'HA'. Uses that are neither "permitted in principle" or "not permitted" are assessed in terms of the achievement of the purpose of the zoning objective. This is supported by the Section 5 declaration in relation to the agricultural shed.
- The yard is not visible from public vantage points and its visibility within the site is limited to localised areas and protects the landscape. The yard's location and limited visibility accord with Objective GINHO67.
- The Development Plan definition of 'concrete areas' does not apply.
- The scale and character is appropriate noting the submitted Landscape Maintenance Schedule. The size is justified by the need to store large

quantities of materials, provide safe operations for heavy machinery and support the range of activities to maintain the high quality landscape.

- The infrastructure ensures the ecological health and visual appeal of the site.

Refusal Reason No. 2

- Maintaining the sylvan setting and well managed forestry is essential for the area character and ecology and there are no incongruous elements.
- No loss of vegetation has occurred rather the opposite as it supports essential horticultural and agricultural tasks and there is no interference with highly sensitive areas given its lack of visibility and accords with Objectives GINHO59 and GINHO58.

6.2. Planning Authority Response

- 6.2.1. The response notes an active enforcement file in relation to the construction of commercial sheds, concrete yard and unauthorized commercial activities. The site is located within “Highly Sensitive Landscape: Blanchardstown South” and other local policies are noted. A secondary vehicular entrance into the site has been constructed without planning permission and has been disregarded. The Planning Officer notes the removal of a number of trees to facilitate the new site entrance and concrete yard.
- 6.2.2. The substantial yard area is surrounded by recently constructed agricultural sheds and older sheds and no satisfactory justification for the yard on top of the existing c.600sqm of sheds has been put forward.
- 6.2.3. Larger agricultural units are discouraged within highly sensitive areas under Objective GINHO58. Objective GINHO57 has been materially contravened. Granting retention would set a poor planning precedent and be contrary to the zoning. If the Appeal is successful, provision for a Section 48 Development Contribution is required.

6.3. Observations

None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the reports of the Local Authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development and Policy Criteria.
- Visual Impact.

7.2. Principle of Development and Policy Criteria

7.2.1. Under the CDP, the subject site is zoned under objective 'HA' – High Amenity. The development applied for is not listed as "*permitted in principle*". Under the "*not permitted*" use listing, "Concrete/Asphalt" is listed. Per Appendix 7 (Technical Guidance) of the CDP, "Concrete/Asphalt" is defined as "*A structure and/or land used for the purpose of manufacturing concrete, asphalt, and/or related products usually in or adjacent to a quarry or mine*". There is no evidence before me that would suggest that the yard is used for the above purpose and, as such, I agree with the appellant that this is not applicable to this case. Therefore the subject concrete yard cannot be considered to be listed as a use which is "*not permitted*". I will consider the type of use in accordance with Section 13.1 which states "*uses which are neither 'Permitted in Principle' nor 'Not Permitted' will be assessed in terms of their contribution towards the achievement of the zoning objective and vision. The technical guidance notes to be used in the context of the adopted use classes are found in Appendix 7*".

7.2.2. Under zoning objective 'HA' – high amenity, the vision is to "*protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored*".

7.2.3. The concrete yard use is justified by the appellant in relation to the agricultural and forestry operations associated with the site and it is asserted that these operations contribute towards the sensitive management of the rural character, distinctiveness

and sense of place by the upkeep of the landscape. The appellant is effectively arguing that the subject yard area is required for this purpose in addition to the yard areas covered by the adjacent sheds and outbuildings. The Planner's Report notes the subject area for retention to be 656sq.m. as stated and estimates the hardstanding area applicable in its vicinity which is mostly covered by sheds to be c.600sq.m within the overall land holding of 3.8ha. I consider this level of hardstanding to be disproportionate for the site.

- 7.2.4. Having reviewed the submitted drawing titled '*Landscape Areas for Operation, Maintenance and Management*' prepared by GLDA and from my site visit I see no reason to doubt these area figures in relation to the relative areas of hardstanding. This GLDA drawing also includes the areas described as forest, meadows, gardens and orchard.
- 7.2.5. From my site visit in early September, there was no evidence that the meadow areas were in agricultural use in terms of use for growing or use by animals. I do not consider the southern area of the site to meet the definition of a forest due to its relatively small area. It could be described as a small wooded area however. Noting the areas, excluding the gardens, which the appellant is describing as agricultural or forest, and the size of the subject yard area, the yard area may appear to be small by comparison but in absolute terms 656sq.m. is a significant increase in area relative to the existing areas of hardstanding which have more than doubled. It is also noted that the hardstanding areas in front of and to the south of the sheds and outbuildings is significant and I have no information before to suggest that these areas do not allow for the parking or manoeuvring of larger vehicles.
- 7.2.6. However, having regard to the Annual Maintenance Landscape Schedule prepared by AYG Landscape Consultants put forward at application stage, I do not consider that it can be reasonably considered that the areas described as meadows, orchard and forest, can be considered to be equivalent to lands that require significant agricultural input or upkeep, given their size, which could be considered small in agricultural or forestry terms. Rather, the upkeep appears to be mainly related to their landscape value and no credible evidence has been presented to the contrary. In this context, I consider the existing hardstanding and shed areas to be more than

adequate to cater for the machinery and operations associated with the maintenance and upkeep of these landscapes. The schedule suggests little in the way of additional agricultural or forestry production that would merit a significant addition to the hard landscaping on the site given the zoning objective to protect this highly sensitive landscape. The maintenance schedule also suggests that hay be stored in covered areas.

7.2.7. Having regard to Section 9.6.17 (High Amenity Zoning) and to the subject site zoning and vision, I consider that the appellant has not provided a justification that the maintenance of the landscape and its protection cannot be adequately catered for by the existing sheds and hardstanding areas on the site and I consider that its character would be better preserved by the avoidance of further expansions of hardstanding areas on this part of the site. Per Objective GINHO67 of the CDP, I do not consider that such a development by its nature can be said to reflect and enhance the landscape qualities of the area being an area of hardstanding rather than natural landscape and I consider this to be a material contravention of this objective of the CDP and of the HA (High Amenity) zoning objective for the site which vision the development fails to meet and I recommend that permission be refused on this basis.

7.2.8. To note, as the surface water drainage and soakpit measures applied for are linked to the provision of the hard standing area, there is no reason that they be separately granted permission given my recommendation to refuse retention permission for the hard standing area.

7.3. Visual Impact

7.3.1. Having visited the subject site, I acknowledge the appellant's points that views of the subject area are very limited within the site and non-existent outside it. This is partly due to the low plant screening around the yard and its position adjacent to the existing buildings. As the screening to the south and west of the yard could easily be removed and as the Planning Authority has suggested that trees were removed to cater for the development, I consider that the character of the landscape has been altered by the addition of the subject area of hard landscaping but in its overall context, having regard to the position of such on the site and its ground level

position, I do not consider that a significant landscape visual impact has resulted outside the site. However, in the immediate environs, the visual impact on the rural setting, given the significant scale on the site, cannot be said to contribute towards the protection of this highly sensitive and scenic location, the enhancement of the landscape or sense of place and I consider the concrete hardstanding area to be incongruous in its context.

- 7.3.2. The concrete area has been found not to contribute towards the vision of the 'HA' zoning objective, is incongruous by its urban nature and scale relative to the site and has disproportionately eroded the rural and natural landscape of the site relative to the overall site area despite its limited visibility. The development also interferes with the character of this highly sensitive area and impinges significantly on the character, integrity and distinctiveness of the site and its rural nature given its relative scale and urban form and thereby materially contravenes Objectives GINHO58 and GINHO59 of the Development Plan. To note due to the scale of development, I have no concerns in relation to any significant ecological impact. I consider that the negative landscape impact contributes towards the reason to recommend refusal on material contravention grounds above in relation to the protection of the highly sensitive landscape.

Material Contravention Issue

- 7.3.3. The Planning Authority considered in its refusal reasons that the development materially contravenes Objective GINHO67 and the 'HA' zoning objective for the site and that Objectives GINHO59 and GINHO58 are materially contravened given the impacts on the landscape and character of the area. I agree that a material contravention of these objectives of the Development Plan arises for the reasons outlined above in terms of significant lack of consistency with the vision of the zoning objective for the site and impacts on the landscape character of the area from the relatively large scale additional concrete area on the site. If the Board considers that a grant of permission is nonetheless merited, I draw its attention to Section 37(2)(b) of the 2000 Act as amended and the criteria (i) to (iv) which a grant of permission would be required to satisfy if the Board agrees that a material contravention of the Development Plan arises.

- 7.3.4. I have reviewed these criteria and I do not consider that the development meets the criteria as it is clearly not of strategic or national importance given its scale and type; there are no conflicting objectives in the development plan or objectives which are not clearly stated in relation to the development; the RSES, the Section 28 Guidelines, policy directives under section 29, the statutory obligations of the Council, and Government policies do not require or provide for such type of development in a rural area; and the pattern of development, and permissions granted in the area since the making of the development plan do not provide precedent or support for the granting of permission in this case. It is thus not recommended that the Board considers granting permission using the material contravention powers open to it.

8.0 AA Screening

- 8.1. I have considered the proposed residential extension in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located c.2.2km from the Rye Water Valley / Carton Special Area of Conservation (SAC) and PNHA (site code 001398) to the west.
- 8.2. The proposed development comprises the retention of concrete yard and construction of surface water drainage infrastructure and a soak pit.
- 8.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:
- The small scale and limited footprint of the development relative to the subject site,
 - The location of the development down river from the above SAC and the nature of intervening habitats which are agricultural and partly urban.
 - Taking into account the screening determination carried out by the Planning Authority.
- 8.4. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9.0 Recommendation

I recommend that the planning application be refused permission for the following reasons and considerations.

10.0 Reasons and Considerations

1. The proposed development is located within an area zoned 'HA' (High Amenity) and which is identified as a highly sensitive landscape in the Fingal Development Plan 2023 – 2029. The concrete area is not permitted in principle in the 'HA' (High Amenity) zoning, is incongruous by its urban nature and significant extent and scale and has in combination with the existing development disproportionately eroded the natural landscape value of the area. The development is not primarily connected to agriculture and in combination with adjoining development contributes to the erosion of the landscape character of the area. The proposed development does not therefore accord with the vision of the zoning of the site which seeks to protect such highly sensitive and scenic locations from inappropriate development and to reinforce their character. Retention of the proposed development therefore materially contravenes the 'HA' land use zoning objective and Objectives GINHO58, GINHO59 and GINHO67 of the Fingal Development Plan 2023-2029, and is wholly unnecessary for the purpose of preserving the landscape. The proposed development is, therefore, contrary to the proper planning and sustainable development of the area

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.

Ciarán Daly
Planning Inspector

2nd October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319993-24		
Proposed Development Summary	Retention of concrete yard and construction of surface water drainage infrastructure and a soak pit with all associated site works		
Development Address	Ounavarra, Clonee Road, Lucan, Co. Dublin, K78 HP90		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X	N/A	No EIAR or Preliminary Examination required
Yes		Class 10(b)(iv)	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____**Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-319993-24	
Proposed Development Summary	Retention of concrete yard and construction of surface water drainage infrastructure and a soak pit with all associated site works	
Development Address	Ounavarra, Clonee Road, Lucan, Co. Dublin, K78 HP90	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development.</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment.</p>	<p>The proposed development is for the retention of a concrete yard and surface water drainage infrastructure, in a rural area. This is an urban type of development of cumulative scale.</p>	Yes
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>		No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to</p>	<p>The scale of hard standing is significant on the site and in the rural environment.</p>	Yes

other existing and / or permitted projects?		No
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</p>	<p>No designations apply to the subject site. The subject site is located c.158m from Liffey Valley Proposed Natural Heritage Area (PNHA) (site code 000128) to the south, east and west, is c.1.1km from the Royal Canal PNHA (site code 002103) to the north, is c.2.2km from the Rye Water Valley / Carton Special Area of Conservation (SAC) and PNHA (site code 001398) to the west. No significant impact is anticipated from surface water run-off given the scale of development, the site characteristics and the intervening natural landscape.</p>	No
<p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>		No
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p>	X	

Inspector:

Date:

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)