



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320770-24

<b>Development</b>	<i>Permission to raise the existing entrance piers and all associated site works</i>		
<b>Location</b>	<i>11 Churchtown Road Upper Dublin 14 D14 V277</i>		
<b>Planning Authority Ref.</b>	<i>D24B/0290</i>		
<b>Applicant(s)</b>	<i>Ceire and Tomas Barry</i>		
<b>Type of Application</b>	<i>Permission</i>	<b>PA Decision</b>	<i>Refuse Permission.</i>
<b>Type of Appeal</b>	<i>First</i>	<b>Appellant</b>	<i>Ceire and Tomas Barry</i>
<b>Observer(s)</b>	<i>None</i>		
<b>Date of Site Inspection</b>	<i>08/10/2024</i>	<b>Inspector</b>	<i>Andrew Hersey</i>

#### Context

**1. Site Location/ and Description.** The site is located at 11 Churchtown Road Upper being a low density suburb in south County Dublin The site comprises of a two storey semi-detached dwelling with large front and large rear gardens all on a stated site area of 0.041ha

The character of the area is defined by similar semi-detached houses on large sites similar to that of the dwelling subject of this appeal.

The proposed development site is located on the western side of a significant junction of Churchtown Road Upper, Whitehall Road and Landscape Park.

**2. Description of development.** *The proposed development comprises of Permission for:*

- Raising the height of the existing piers

**3. Planning History.**

- *Planning Reg. Ref. D24B/0148* Permission granted to the same applicants on the 29<sup>th</sup> May 2024 for 1) Single storey extension to the front and side with new flat roof to the front , 2) First floor extension to the side with existing hipped roof extended, 3) New rooflight to the front of dwelling, 4) Dormer extension to the rear of dwelling, 5) Raising of existing entrance piers, 6) New steel shed for bike storage in front garden and all associated site works.

The above permission was subject to the following condition:

Condition 2: The front boundary piers shall not be raised and the existing gates, for which there is no planning permission, shall be reduced in height to a maximum of 1.2 metres. Reason: In the interest of visual amenity, and to better integrate the proposed development into the surrounding streetscape

**4. National/Regional/Local Planning Policy**

- Dun Laoghaire Rathdown County Development Plan 2022-2028 is the statutory development plan in the area where the proposed development site is located.
- Within the plan the site is subject to zoning objective A, which seeks '*to provide residential development and improve residential amenity while protecting the existing residential amenities*'
- Chapter 12 Development Management. Section 12.4.8 refers to Vehicle Entrances and Hardstanding Areas
- Chapter 12 Development Management. Section 12.4.8.2 refers to Visual and Physical Impacts and states in part that;  
  
Impacts on features like boundary walls and pillars, and roadside grass verges and trees outside properties will require to be considered, and entrances may be relocated to avoid these. Any boundary walls, entrance

piers and gates and railings shall normally be finished to harmonise in colour, texture, height and size to match the existing streetscape.

## **5. Natural Heritage Designations**

The nearest designated site is

- South Dublin Bay and River Tolka SPA (Site Code 004024) which is located 5.2km metres to the east of the site and
- South Dublin Bay SAC (Site Code 000210) which is located 5.2km to the east of the site

## **Development, Decision and Grounds of Appeal**

**6. PA Decision.** Permission refused on the 14<sup>th</sup> August 2024 for the following reasons

1. *Having regard to the design, position and location of the proposed development, the proposed development would, if permitted, materially contravene a condition attached to an existing permission, namely Condition 2 of Planning Authority Reg. Ref. No. D24B/0148 and would not accord with the requirements of said condition, in terms of omission of the proposal for the front boundary piers to be raised, and that the existing gates be reduced in height to a maximum of 1.2m. The proposed development would, therefore, if permitted, be contrary to the proper planning and sustainable development of the area*
2. *It is considered that the proposal for the raising in height of the front entrance gateway piers to 1950mm, and the existing similar, tall height of the existing semi-solid panels gates, and indicated increased panels design to the gates; having regard to their height, and design, the prominent location near a corner, and position directly bounding a public footpath; is contrary to surrounding visual amenities, incongruous and would help visually dominate the property's frontage, and would be out-of-character with on the house, and seriously out-of-character with and fail to integrate with the streetscape, and surroundings and would contravene Section 12.4.8 Vehicular Entrances and Hardstanding Areas of the Dún Laoghaire–Rathdown County*

<p><i>Development Plan 2022-28. The development would also be visually obtrusive and overbearing for pedestrians on the adjoining public footpath, and the proposal overall would interfere with visibility at the vehicular entrance, and would help set a poor precedent for similar type development in the area. The proposal and development would therefore, seriously injure amenities in the vicinity and is contrary to the proper planning and sustainable development of the area</i></p>
<p><b>7. Submissions</b></p> <p><i>None received</i></p>
<p><b>8. Internal Reports</b></p> <p>None received</p>
<p><b>9. First Party Appeal.</b></p> <p>A first party appeal was lodged by the applicants Ceire and Tomas Barry on the 9<sup>th</sup> September 2024</p> <ul style="list-style-type: none"> <li>• That they will comply with Condition 2 of Planning Reg. Ref. D24B/0148 by keeping the height of the pier as it exists and removing the gate</li> <li>• That this application should be determined as a stand-alone application separate to that granted under Planning Reg. Ref. D24B/0148</li> <li>• That the planning authority in their assessment considered that there was no planning permission in place for the gates. The gates were erected as a development which is exempt from permission.</li> <li>• There are many examples of piers in the area being greater than 1950mm in height – photos showing the same have been submitted with the appeal document.</li> <li>• The Planning Authority have incorrectly interpreted Section 12.4.8 of the Development Plan</li> </ul>
<p><b>11. Planning Authorities Response</b></p> <p>A response was received by the Planning Authority on the 24<sup>th</sup> September 2024. The response refers to the previous Planners Report on file and that the appeal does not raise any further material that would justify a change of attitude to the proposed development.</p>

## **Environmental Screening**

### **12. EIA Screening**

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

### **13. AA Screening**

Having regard to the modest nature and scale of development, its location in an urban area, connection to existing services and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **2.0 Assessment**

### **2.1. Introduction**

2.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance.

2.1.2. I am satisfied the substantive issues arising from the grounds of this third party Appeal relate to the following matters-

- Principle of Development
- Visual Amenities
- Other Issues

### **2.2. Principle of Development**

2.2.1. The proposed development site is located within an area designated as zoning objective A, in the Dun Laoghaire Rathdown County Development Plan 2022-2028.

Zoning objective A seeks *'to provide residential development and improve residential amenity while protecting the existing residential amenities'*

- 2.2.2. With respect of the above, it is considered that the proposed development which is for the raising of the height of the entrance piers is considered to be an acceptable form of development within this land use zoning designation.

### 2.3. Visual Amenities

- 2.3.1. The proposed development is to raise the existing gate piers by 450mm to an overall height of 1950mm. The proposed development does not include for any alterations to the gate nor does the proposed development include for retention permission of the gate.

- 2.3.2. Condition No. 2 of Planning Reg. Ref. D24B/0148 states that:

*The front boundary piers shall not be raised and the existing gates, for which there is no planning permission, shall be reduced in height to a maximum of 1.2 metres. For reasons of visual amenity, and to better integrate the proposed development into the surrounding streetscape.*

- 2.3.3. The appellants state that they will comply with this condition as part of the overall works permitted on the site. They state in the appeal that they will also remove the gates (as opposed to reducing the height)

- 2.3.4. The drawings submitted however, show that the existing gate is to be maintained. There is a discrepancy therefore between the drawings submitted and the appeal.

- 2.3.5. They further state in the appeal that the said gate which they erected is exempt from planning permission contrary to what is stated in Condition No. 2 and in this regard they refer to Schedule 2 Article 6 Part 1 Class 9 of the Planning & Development Act 2000. This citation is inaccurate. Class 9 Part 1 of Schedule 2 of the Planning and Development Regulations 2001 refers to *the construction erection or renewal or replacement other than within or bounding the curtilage of a house of any gate or gateway* (is exempt development) subject to the height of such structure not exceeding 2 metres. It is quite clear that this exemption refers to non-domestic properties

- 2.3.6. The exemptions for alterations to gates and boundaries within domestic properties is set out under Class 5 Part 1 of Schedule 2 of the Planning and Development

Regulations 2001 which clearly states that the maximum height is 1.2 metres (in order for the gate or otherwise to be exempt)

- 2.3.7. The gate as stated in condition 2 requires the benefit of permission and is therefore potentially unauthorised. However, I would consider that this is a matter for the planning authority to resolve not the Board and in the case where permission is granted that a condition be issued clarifying that this permission does not include for the retention of the gate.
- 2.3.8. The issue here is as to whether the proposed increased height of the gate piers are appropriate or not in this context.
- 2.3.9. The case planner refers to Chapter 12 Development Management of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and in particular Section 12.4.8.2 which refers to Visual and Physical Impacts which states in part that;
- Impacts on features like boundary walls and pillars, and roadside grass verges and trees outside properties will require to be considered, and entrances may be relocated to avoid these. Any boundary walls, entrance piers and gates and railings shall normally be finished to harmonise in colour, texture, height and size to match the existing streetscape.*
- 2.3.10. The height of the proposed piers will be higher than the adjacent houses to the south 11A as far as 21 Churchtown Road Upper and then 23 has metal piers which are higher than the adjacent concrete piers. No 9 located directly adjacent to the north east has higher piers, No 7 Churchtown Road upper on the north side of the junction has higher piers as does No 2 Whitehall Road.
- 2.3.11. With respect to No. 7 Churchtown Road Upper the boundary walls and gates were permitted at 1800mm. This particular development was subject to an appeal to the Board under ABP PL06D.303074 and granted by the Board.
- 2.3.12. While higher piers are not the norm, some houses in the area have higher piers associated with higher gates and in some cases higher boundary walls.
- 2.3.13. I note that the said development site is not a protected structure nor is the site located within a designated ACA.

2.3.14. On this basis I do not consider that the proposal to increase the height of the piers in this instance is unreasonable nor would it be contrary to the Dun Laoghaire Rathdown County Development Plan 2022-2028 and in particular Section 12.4.8.2.

## **2.4. Other Issues**

2.4.1. It is noted that the first reason for refusal issued by the Planning Authority states that the proposed development contravenes Condition No. 2 of Planning Reg. Ref. D24B/0138. I do not consider this to be reasonable.

2.4.2. The said condition states that *The front boundary piers shall not be raised and the existing gates, for which there is no planning permission, shall be reduced in height to a maximum of 1.2 metres*

2.4.3. The appellant states that they will comply with the said condition in conjunction with the works permitted under that application.

2.4.4. They state in the appeal that this application is a separate application to that as applied for under Planning Reg. Ref. D24B/0138 and should be assessed as such.

2.4.5. I would concur with the same and in the case where the Board were to grant permission for the said development subject of this appeal, I would be of the opinion that it would not contravene Condition No. 2 of Planning Reg. Ref. D24B/0138 as it is viewed as a different and separate development.

## **3.0 Recommendation**

3.1. I recommend that permission for the development be granted.

## **4.0 Reasons & Considerations**

4.1. Having regard to the information submitted with the application and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the zoning objective for the site and the policies with respect of residential extensions as set out in the DunLaoighre Rathdown County Development Plan 2022 – 2028, would not be



injurious to the visual or residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 5.0 Conditions

1.	<p>The development shall be carried out in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>This permission does not include for permission or retention of the vehicular entrance gate to the property as shown on drawing No. 23048-PL-03.</p> <p><b>Reason:</b> To define the scope of the permission</p>

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.

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Andrew Hersey

Planning Inspector

17<sup>th</sup> October 2024