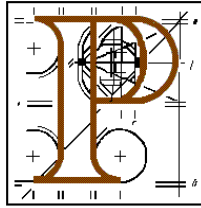


# An Bord Pleanála



## Inspector's Report

PL06F.243944

**DEVELOPMENT:** Permission for Retention of front boundary wall and access position at 'Clifden', 7B Strand Road, Portmarnock, County Dublin

### PLANNING APPLICATION

**Planning Authority:** Fingal County Council.

**Planning Authority Reg. No.:** F14A/0283.

**Applicant:** Seamus Cannon.

**Application Type:** Permission for Retention.

**Planning Authority Decision:** **REFUSE PERMISSION for RETENTION** for Reasons and Considerations (2).

### APPEAL

**Appellant:** Seamus Cannon.

**Type of Appeal:** **FIRST PARTY**

**Observer:** None.

**DATE OF SITE INSPECTION:** 4<sup>th</sup> December, 2014.

**INSPECTOR:** Dermot Kelly

## 1. SITE LOCATION

The subject site is located at 'Clifden', 7B Strand Road, Portmarnock, County Dublin, as indicated on **APPENDIX A - LOCATION MAP**.

## 2. SITE DESCRIPTION

- 2.1 The subject site lands at 'Clifden', 7B Strand Road, Portmarnock, County Dublin comprise a detached three-storey residential property in a row of similar-type properties on the western side of the public road facing the sea.
- 2.2 The attached Photographs in **APPENDIX B – PHOTOGRAPHS** (including Key Plan which indicates the approximate Photograph locations) illustrate the nature of the subject site and its context.

## 3. PROPOSED DEVELOPMENT

### Planning Application

- The proposed development comprises permission for retention of the front roadside white rendered boundary wall (height 2.05 metres) and a 1.97 metre high timber sliding gate at 7B Strand Road, Portmarnock, County Dublin.
- The Agent's submission with the planning application documented (including Photographs) the previous front boundary wall/hedgerow at the previous dwelling on the subject site, and also a number of existing front boundary walls of residential properties in the vicinity.

## 4. NOTIFICATION OF DECISION OF PLANNING AUTHORITY - Submissions and Relevant Reports

### 4.1 Notification of Decision of Planning Authority

- The Planning Authority, Fingal County Council, issued a notification of decision to **REFUSE PERMISSION** for **RETENTION** for the proposed development for Reasons and Considerations (2) as follows:

- Relating to Traffic Hazard.
- Relating to Visual Obtrusiveness.

#### **4.2 Third Party Submission on Planning Application**

No Submission was received.

#### **4.3 Transportation Department Report**

This report, dated 15<sup>th</sup> August 2014 stated as follows:

“The Transportation Planning Section considers the height of this front boundary wall to be excessive. *Considering the fact that the site is located at a seaside resort where there is a high volume of pedestrian traffic utilising the footpaths at this location, there is a high probability of vehicle/pedestrian conflicts arising from the lack of sight visibility while exiting the site.* The Transportation Planning Section recommends that the wall/gates be reduced in height in line with the adjoining property to the north in order to prevent any traffic hazard that may arise.”

#### **4.4 Planning Report for Planning Authority**

- The Planning Report, dated 5<sup>th</sup> September 2014, included noting the ‘Residential’ zoning and the Planning History and Enforcement History of the subject site including the issuing of a Warning Letter on 8<sup>th</sup> May, 2014 in regard to the proposed development to be retained in relation to the site access and the height of the front boundary wall.
- Condition No. 10 of the permission (Ref. F08A/1240) granted on 30<sup>th</sup> January, 2009 for the existing dwelling on the subject site, required that *‘the applicant shall submit details of the boundary treatment to the front of the site for the written agreement of the Planning Authority’*, and it was noted that no written agreement was issued by the Planning Authority.
- It was noted that the Transportation Department Report considered that the excessive height of the front boundary wall would result in a traffic hazard for reasons stated.
- ‘It was considered that ‘the height of this wall at 2 metres immediately adjoining a public footpath is overbearing and visually obtrusive. The height is out of character to that of neighbouring properties and results in a loss of passive supervision at this location’.

- Refusal of permission was recommended for the Reasons and Considerations (2) as stated in the notification of decision of the Planning Authority.

## **5. APPEAL GROUNDS**

### **First Party Appeal**

The main grounds of the First Party Appeal are as follows:

- The Planning and Enforcement History of the subject site was documented and it was noted that no response was received from the Planning Authority in regard to a compliance submission lodged with the Planning Authority on 8<sup>th</sup> April 2009 in regard to Condition No. 10 of the planning permission (Ref. F08A/1240) on the site.
- In regard to the First Reason of Refusal it was stated that the front boundary was constructed generally in accordance with the compliance submission for reasons of ‘security and anti-social behaviour issues occurring at the property’.
- Standard visibility lines at a driver’s eye height of 1.05 metres had not previously existed at the location of entry/exit from the subject site and as stated “the overall boundary height of the property to the north exceeds that of the subject property”.
- In regard to the Second Reason of Refusal, it was submitted that the previous front boundary to the previous dwelling on the subject site, was more “visually obtrusive” and higher than now existing.
- It was submitted that ‘almost every property along Strand Road has an alternative boundary of varying height and individual style and character (see photo sample enclosed) but similar in colour and texture, therefore the subject works cannot be considered inconsistent with the pattern of development in the vicinity’.
- The submitted Photographs of the original front boundary/existing front boundary at the subject site and of adjacent front boundaries on Strand Road are noted. It was submitted that the proposed development to be retained ‘will not set an undesirable precedent for similar replacement boundary treatments in the vicinity’.

## 6. APPEAL RESPONSES

### 6.1 Appeal Observation

No Appeal Observation was received.

### 6.3 Planning Authority Appeal Response

The Appeal Response made no further comments.

## 7. PLANNING HISTORY

The Planning Report for the Planning Authority documented the Planning History of the subject site including as follows:

'F08A/1240 – Permission GRANTED for demolition of existing 2 storey detached dwelling and for the construction of a 3 storey 5 bedroom detached dwelling, for S. Cannon. Final Grant: 30<sup>th</sup> January 2009.

*Condition 10 – 'Prior to commencement of development, the applicant shall submit details of the boundary treatment to the front of the site for the written agreement of the Planning Authority. REASON: In the interest of visual amenity'.*

F08A/1240/C1 – A compliance was submitted, but a decision has not yet issued'

Under 'Enforcement History' was stated as follows:

'ENF No. 14/58B – A warning letter was issued on 8<sup>th</sup> May 2014 in relation to the subject site. Issues related to site access and high level wall to front boundary of the site'.

## 8. DEVELOPMENT PLAN

8.1 The provisions of the 2011 – 2017 Fingal County Development Plan have been considered, and in particular the following provisions which are attached in **Appendix C – Development Plan:-**

- The 'RS Residential' land use zoning objective for the subject site: "Provide for residential development and protect and improve residential amenity"
- Specific Objective – 'Preserve Views' along Strand Road.

## 9. PLANNING ASSESSMENT – Issues and Evaluation

Having regard to the above and having inspected the site and having reviewed all documents on file, the following is my assessment of this case where the major planning issues for consideration are as follows:

### 9.1 Traffic Safety

### 9.2 Visual and Residential Amenity

- At the outset I note that the subject site lands at ‘Clifden’, 7B Strand Road, Portmarnock, County Dublin comprise a detached three-storey residential property in a row of similar-type properties on the western side of the public road facing the sea.
- The proposed development comprises permission for retention of the front roadside white rendered boundary wall (height 2.05 metres) and a 1.97 metre high timber sliding gate at 7B Strand Road, Portmarnock, County Dublin.
- The Agent’s submission with the planning application documented (including Photographs) the previous front boundary wall/hedgerow at the previous dwelling on the subject site, and also a number of existing front boundary walls of residential properties in the vicinity.

### 9.1 Traffic Safety

- I note the stated Reasons and Considerations No. 1 in the notification of decision of the Planning Authority to refuse permission for the proposed development:
  1. *It is considered that the height of the wall at 2.05 metres would endanger public safety by reason of traffic hazard with regard to visibility and as such the proposal is considered to be contrary to the proper planning and sustainable development of the area.*
- I note the Transportation Planning Section Report for the Planning Authority which considered that by reason of the excessive height of the front boundary wall that *‘there is a high probability of vehicle/pedestrian conflicts arising from the lack of sight visibility while exiting the site’* as stated.
- I note also in this regard that Condition No. 10 of the permission (Ref. F08A/1240) granted on 30<sup>th</sup> January, 2009 for the existing dwelling on the subject site, required that *‘the applicant shall submit details of the boundary treatment to the front of the site for the*

*written agreement of the Planning Authority*, and that no written agreement was issued by the Planning Authority.

- I note the First Party Appeal Grounds submission that the front boundary was constructed generally in accordance with the compliance submission lodged with the Planning Authority on 8<sup>th</sup> April, 2009 including for reasons of ‘security and anti-social behaviour issues occurring at the property’.
- I note also the Appeal Grounds submission that standard visibility lines at a driver’s eye height of 1.05 metres had not previously existed at the location of entry/exit from the subject site and as stated “the overall boundary height of the property to the north exceeds that of the subject property”.
- Further to site inspection I note that the front boundary wall of the adjoining property to the north is significantly lower than the proposed boundary wall to be retained – see Photographs 10 and 11 in Appendix B of this report and also the submitted ‘Front Street Elevation’ drawing.
- I also refer to the submitted Photographs included in the First Party Appeal including Photo 1 ‘Original Boundary Comprising Wall and Hedgerow – Subject Site’, which indicates that the entrance gates and front boundary wall previously existing on the subject site are significantly *lower* in height than the front boundary wall and entrance gates proposed to be retained.
- I note in particular the Transportation Department Report for the Planning Authority dated 9<sup>th</sup> April, 2009 on file in regard to the submitted Compliance with Condition No. 10 of the relevant permission F08A/1240 where stated that the compliance submission was ‘unacceptable’ by reason that ‘The Transportation Department only considers high walls fronting a property in extreme circumstances where sites are restricted and when there are no other options available. *In this situation the Department feels that low walls are entirely suitable for this location, and aid visibility/safety for both pedestrians and vehicles.*’
- In my opinion the proposed development to be retained by reason of the height of the front boundary wall cannot be considered to ‘*aid visibility/safety for both pedestrians and vehicles*’. The submitted Front Street Elevation drawing indicates the significantly higher front boundary wall proposed to be retained at the subject site in the context of the adjoining residential properties on either side.

## 9.2 Visual and Residential Amenity

- I note the stated Reasons and Considerations No. 2 in the notification of decision of the Planning Authority to refuse permission for the proposed development:
  2. The site is located on lands zoned Objective RS in the Fingal County Development Plan, 2005-2011 where the stated objective is ‘to provide for residential development and to protect and improve residential amenity’. The development of a 2.05 metre high wall and entrance gates at this prominent location, is visually obtrusive and is not consistent with the pattern of development in the vicinity of the site with regard to boundary treatments. The proposal would set an undesirable precedent for similar visually obtrusive developments in the vicinity and would therefore be contrary to the Objective RS zoning objective and contrary to the proper planning and sustainable development of the area.
- I note the Objective RS zoning of the subject site in the current 2011-2017 Fingal County Development Plan. I note the Planning Report for the Planning Authority considered the height of the front boundary wall/entrance gates proposed to be retained at the subject site alongside the public footpath to be ‘overbearing and visually obtrusive’ and ‘out of character’ in the area.
- I note the First Party Appeal Grounds where submitted that the previous front boundary to the previous dwelling on the subject site was more “visually obtrusive” and higher than now existing.
- Further to site inspection – and I refer to the Photographs in Appendix B of this report – in my opinion the proposed front boundary wall and entrance gates to be retained, are significantly higher and more visually obtrusive than the front boundary wall and entrance gates as indicated on Photo 1 ‘Original Boundary Comprising Wall and Hedgerow – Subject Site’ included in the Appeal Grounds. The unsightly hoarding to the rear of the entrance gates and part of the front boundary wall, and the timber railing above the front boundary wall, is discounted in this assessment.
- I note also the Appeal Grounds submissions in regard to the front boundaries of other properties on Strand Road and that as stated ‘therefore the subject works cannot be considered inconsistent with the pattern of development in the vicinity’.



- However in this regard I note that the existing front boundary walls of the adjoining properties to the north and south, are significantly lower than the front boundary wall proposed to be retained on the subject site and that such was also the case with the front boundary wall previously existing on the subject site. On site inspection I noted that there were a large number of residential properties on Strand Road in the area north of the subject site with significantly lower front boundary walls than the front boundary wall proposed to be retained.
- As such in my opinion retention of this high front boundary wall as proposed could establish 'an undesirable precedent for similar replacement boundary treatments in the vicinity', contrary to as submitted in the First Party Appeal Grounds, and on this matter I concur with the Planning Authority.
- In this regard I note that the houses in this area face towards the sea and an attractive coastal park – see Photographs 1-3 in Appendix B. The 'RS Residential' land use zoning objective: "Provide for residential development and protect and improve residential amenity" under the 2011-2017 Fingal County Development Plan for this area including the subject site is noted, and also that there is a stated Specific Objective 'Preserve Views' along Strand Road as indicated on Portmarnock Sheet No. 9 in the Development Plan, see Appendix C- Development Plan.
- While noting the submitted First Party Appeal Grounds, on balance I concur with the Planning Authority that the proposed development to be retained should be refused permission in accordance with the stated Reasons and Considerations (2) in the notification of decision of the Planning Authority as amended hereunder.

#### Appropriate Assessment

Having regard to the location of the subject site and to the nature of the proposed development to be retained, I consider that no appropriate assessment issues arise in this case. In my opinion the proposed development to be retained either individually or in combination with other plans or projects, would not be likely to have a significant effect on a Natura 2000 Site.

## **10. CONCLUSIONS AND RECOMMENDATION**

In conclusion, further to the above planning assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal, and including the site inspection, I consider that the proposed development to be retained would be contrary to the proper planning and sustainable development of the area, having regard to the relevant provisions of the 2011-2017 Fingal County Development Plan, which are considered reasonable. Accordingly, I recommend that permission be refused for the proposed development to be retained for the Reasons and Considerations stated in the Schedule below.

### **DECISION**

REFUSE permission for the above proposed development to be retained for the Reasons and Considerations set out below.

### **REASONS AND CONSIDERATIONS**

1. It is considered that the height of the front boundary wall to be retained at 2.05 metres above the adjoining public footpath, would endanger public safety by reason of traffic hazard by reason of restricted visibility at the vehicular access/egress onto the public road, and the proposed development to be retained would therefore be contrary to the proper planning and sustainable development of the area.

2. The site is located within lands zoned Objective RS in the 2011-2017 Fingal County Development Plan where the stated objective is 'Provide for residential development and to protect and improve residential amenity'. The proposed development to be retained of a high front boundary wall and entrance gates in a prominent location on Strand Road close to the seafront along which there is a Specific Objective 'Preserve Views' in the Development Plan, would be visually obtrusive and out of character with lower front boundary walls of residential properties in the vicinity and would detract from the visual and residential amenities of the area. The proposed development to be retained would set an undesirable precedent for similar-type visually obtrusive development in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

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**DERMOT KELLY**  
**SENIOR PLANNING INSPECTOR**

**17<sup>th</sup> December, 2014.**

**rk/sg**

APPENDIX A - LOCATION MAP  
APPENDIX B - PHOTOGRAPHS (incl. KEY PLAN)  
APPENDIX C - DEVELOPMENT PLAN