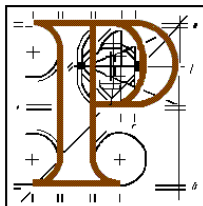


An Bord Pleanála



Inspector's Report

DEVELOPMENT: Permission for retention of front entrance walls, retention of south and west boundary walls, permission for completion of walls, new fence and associated works.

LOCATION: Park, Ballycolla, Co Laois.

PLANNING APPLICATION

Planning Authority: Laois County Council.

Planning Authority Reg. No: 15/303

Applicant: Paul Kavanagh and Nicola Tobin

Application Type: Permission.

Planning Authority Decision: Grant Permission subject to conditions.

APPEAL

Appellant: Ann Egan and John Byrne.

Type of Appeal: Third Party v Permission

Observers: None

DATE OF SITE INSPECTION: 21st February 2016

INSPECTOR: Bríd Maxwell

1.0 SITE LOCATION AND DESCRIPTION

1.1 The appeal site which has a stated area of .276 hectares located within the settlement of Ballycolla Co Laois. The site accessed is off a poorly surfaced laneway which runs southwest from the housing estate St Fergal's Park. The site is occupied by a single storey dwelling of recent construction which has a mixed stone and render finish. Site boundaries are defined by a mix of hedging and trees along the northern and eastern boundary. The western boundary to laneway is presently undefined save for splayed entrance wing walls at the southern extremity. Along the southern boundary a retaining wall of stone finish is partially constructed. There is an industrial commercial workshop unit on the adjacent site to the southwest of the appeal site and a residential site occupied by a mobile home adjacent to the north. On the common boundary with the adjoining residential site there is a pair of agricultural gates adjacent to the laneway and adjacent to the appeal site.

2.0 PROPOSED DEVELOPMENT

2.1 The proposed development as set out in public notice is

- (a) permission to retain as constructed front entrance walls to the site and permission to retain as constructed south and west boundary walls to adjoining neighbour.
- (b) planning permission to complete the above entrance walls including the erection of pier and capping and erection of fence between the boundary piers.
- (c) erection of new fence with internal hedging to the west roadside site boundary
- (d) All associated site work.

3.0 PLANNING HISTORY

- 05/704 Permission granted to Paul Kavanagh and Nicola Tobin to construct a four bedroomed split level bungalow, new entrance with septic tank and percolation area with all associated site works. UD15/52 Warning letter in respect of non-compliance with conditions 1,8, 13 and 14.

4.0 PLANNING AUTHORITY'S DELIBERATIONS AND DECISION.

4.1 Submissions

- Third party submission from the appellants John Byrne & Ann Egan who object on grounds of impact on surface water run off, and raise concerns regarding blocking up of the gateway to their property.

4.2 Planning Authority Reports.

- Area Engineer's report indicates no objection.
- Planner's report recommends permission subject to conditions.

4.3 Planning Authority's Decision

The Planning Authority decided to grant permission subject to 4 conditions which included the following of particular note:

Condition 2. Surface water to be collected and disposed of within the site.

Condition 3. No part of the development shall encroach oversail or otherwise physically impinge on adjoining property save with the prior written agreement of the owner's thereof.

5.0 APPEAL SUBMISSIONS

5.1 The third party appeal is submitted by Anne Egan and John Byrne, owners of the residential site adjoining to the northwest of the appeal site. Grounds of appeal are summarised as follows:

- When the appellants purchased their house in 1998 there were two timber gates at the end of the site on the common boundary. These were later replaced with iron gates with galvanise for security reasons.
- One of the gates on the common boundary between the appellant's and appeal site was used on a daily basis for at least 17 years to access the property up to January 2013 when one of the appellants fell ill.
- Works within the appeal site have resulted in obstruction of this gate and blocking of soakpit.

5.2 Response of Planning Authority to Grounds of Appeal

5.2.1 The Planning Authority has no objection to the development. Surface water issues should be dealt with by condition. Soakpit referenced in grounds of appeal is outside the subject of the permission. The movement of clay is a civil matter between both parties.

5.3 First Party Response to the Appeal

5.3.1 The First Party Response to the appeal disputes the assertion that gate 1 was an established gateway noting that the area adjacent is the first party's garden area.

6.0 PLANNING POLICY

6.1 DEVELOPMENT PLAN

6.2.1 The Laois County Development Plan 2011-2017 is the statutory development plan for the area.

7.0 ASSESSMENT

- 7.1 Following my inspection of the site and consideration of the documentation on file, I consider that the main issues raised in the appeal relate to impact on surface water drainage and impact on the gateway to the adjacent residential site. I note that the submissions on the latter issue which raise questions of a right of way is a civil matter which is not relevant to the planning merits of the development proposed for retention and proposed development. The application as set out in the detailed documentation on file seeks permission to retain front entrance walls, boundary walls and complete of walls and fencing along the site boundary. On the issue of surface water drainage, I would concur with the view of the planning authority that the disposal of surface water is a matter which can be addressed by way of condition. As regards the visual impact of the walling proposed for retention and completion I consider that it is visually appropriate and is considered to be in keeping with the proper planning and sustainable development of the area.
- 7.2 As regards the issue of Appropriate Assessment, having regard to the nature of the development and the site and the lack of connectivity with a Natura 2000 site it is considered that appropriate assessment under the Habitats Directive (92\43\EEC) is not relevant in this case.

8.0 RECOMMENDATION

- 8.1 I have read the submissions on file, visited the site and had due regard to the provisions of the Development Plan and all other matters arising. I recommend that planning permission be granted subject to the following conditions.

REASONS AND CONSIDERATIONS

Having regard to the pattern of development in the area it is considered that the development proposed for retention and the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would not endanger public safety by reason of traffic hazard. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed 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.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development and to prevent pollution.

Bríd Maxwell,
Planning Inspector
22nd February 2016