



An
Bord
Pleanála

Inspector's Report PL28.248922

Development	Boundary fence and vehicular entrance.
Location	Lyttelton, Douglas Road, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	16/37109
Applicants	Denis & Catherine Duggan
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	Kieran & Donna Coogan
Observer(s)	None
Date of Site Inspection	24/10/17
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

- 1.1. The site subject of the appeal constitutes one of two detached two storey dwellings accessed via a track that traverses a public open space within a mature residential area accessed from the R610 Douglas Road to the south of Cork City centre. The house with a low front boundary wall is currently served by an unsurfaced track delineated by a line of mature trees on one side with the fencing delineating the boundary of the 2nd dwelling which is backed with mature trees on the other. The dwelling backs onto a house which has frontage onto Beechwood Park with its side boundary delineated by a hedge with fencing along part.

2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on the 18/10/16 with further plans and details received 08/06/17 including revised public notices following a further information request dated 12/12/16.

The proposal entails the erection of a 1.5 metre high 'well mesh' fence along the access to the dwelling to be set between 600-900mm behind the line of the existing trees so as to provide a dedicated vehicular access. A laurel hedge is to be planted in-between to screen the fence from view. The length of the fence is c.65.5 sq.m. A 1.8 metre high gate with a 3 metre wide opening is proposed at the start of the access, set back approx. 4 metres from the gate to the adjoining dwelling.

Consent from Cork City Council who owns the land across which access is gained accompanies the application.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 6 conditions. Of note:

Condition 2: the welded mesh fence shall be powder coated and black in colour and shall be no higher than 1.5 metres.

Condition 3: Gate materials to consist of vertical bar railings no higher than 1.8 metres and black in colour, and infill panels on either side to be of the same materials.

Condition 4: Location of the fencing posts to be submitted for written agreement.

Condition 6: Entrance to be no greater than 3 metres in width and to recessed.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The *Executive Planner's* report dated 08/12/16 notes that the property section of the City Council has accepted the principle of the disposal of the site. Whilst the loss of any open space must be seriously considered this site specifically contained a driveway accessing a private dwelling and its usability is already limited. Further information is required with respect to the existing trees, design and finishes of the fence and gate with elevation drawings and photomontage requirements detailed.

The *Senior Executive Planner's* report dated 09/12/16 considers the zoning objective for the southern portion of the site to be an anomaly as it has been used for some time as a de facto vehicular access. The issue of ownership of the lands is not relevant to the planning matters arising. The proposal would serve to improve the overall zoned area by removing any ambiguity over the subject lands. It is not considered that the proposal would contravene materially the zoning objectives for the lands. The FI request recommendation of the Executive Planner is endorsed.

The *Senior Executive Planner's* report dated 29/06/17 following FI, in addition to repeating the substance of the Environment Section's report summarised below, notes that welded mesh fencing is often used in parks and sports facilities and has a high degree of transparency. A grant of permission subject to conditions is recommended.

3.2.2. Other Technical Reports

Roads Design has no objection subject to conditions.

Drainage Division has no objection.

Environment (Parks) Section notes that the existing line of beech trees were initially planted to create a hedge to define the access to Lyttelton from the adjoining park. Maintenance of the hedge ceased and the hedge plants have developed into irregular shaped trees providing a green backdrop to the boundary of the park rather than a line of individual specimen trees. The proposed fence inside the line of trees is satisfactory and will not damage the visual appeal of the immediate area. The posts to secure the fence will be positioned at 3 metre intervals and therefore will not damage the tree roots. Exact positioning can be agreed with the Council. The laurel hedge is optional. The revised location for the access gate is satisfactory. Gate materials should consist of vertical bar railing 1.5-1.8m high (black) and the infill panels either side should be of the same materials.

3.3. Prescribed Bodies

Irish Water has no objection

3.4. Third Party Observations

The objections to the proposal received by the planning authority have been forwarded to the Board for its information. The issues raised relate to adequacy of details provided, impact on tree line, visual impact, impact on setting of adjoining dwelling, vehicular access, suitability of fencing and public interest.

4.0 Planning History

I am not aware of any previous planning applications.

5.0 Policy Context

5.1. Cork City Development Plan 2015-2021

The site is zoned ZO14 – public open space the objectives for which is to retain and provide for recreational uses, open space and amenity facilities, with a presumption against developing and zoned public open space area for alternative purposes, including public open space with housing estates.

6.0 The Appeal

6.1. Grounds of Appeal

The 3rd Party appeal against the planning authority's notification of decision to grant permission, which is accompanied by copies of their objections made to the planning authority and photographs, can be summarised as follows:

- Their property (Trabeg House), and its grounds are on the main axis of the public park via a roadway. The proposal will destroy the existing carefully considered symmetry of its fencing and entrance. The right hand section of the boundary fencing which emphasises the relationship of the house and grounds to the park will be obscured by the proposed fence and entrance to Lyttelton.
- The design of the new fencing and hedgerow will restrict views to and from Trabeg House thereby reducing passive supervision and amenity.
- The location of the proposed gate is too close to the entrance of Trabeg House to allow for adequate sight lines for vehicles entering and exiting. There is the potential for their entrance to be obstructed by larger vehicles waiting to enter Lyttelton. Inadequate space has been provided for turning vehicles.
- The proposal contravenes the public open space zoning objective for the site. The fact that the Council is willing to sell the site does not change its status.
- The fencing to be used is inappropriate.
- Inadequate details have been provided on the trees and the maintenance of the proposed laurel hedge. The drawings are insufficient and misleading.
- An alternative arrangement with the gateway and fencing setback from the entrance to their property would be more appropriate and would address their concerns in terms of amenity, access and visual intrusion.
- The planning reports on file failed to take any account of the submissions raised in their objections to the application.

6.2. Applicant Response

The submission by Waterman Consulting Engineers on behalf of the applicants can be summarised as follows:

- The area in question is heavily sheltered and poorly served by natural light. The proposal will improve the visual amenity of the area and the park.
- The appellants' boundary fence is already screened.
- The area is being used for anti-social behaviour. The proposal will increase security.
- As there are only two houses at the end of the lane turning space for vehicles and sightlines are not considered to be issues. Any car that inadvertently drives down the route will only have to reverse a short distance back to the junction to turn. The appellants' suggestion to move the gate in a south-easterly direction would force such vehicles further down this route.
- The loss of open space and amenity has been considered by the planning authority. It is a relatively small parcel of land which has little bearing on the overall size of the adjacent public open space.
- The fencing and location of the gate and design are acceptable to the Environment Section. Condition 3 requires the final design of the gate to be agreed with the planning authority.

6.3. Planning Authority Response

None

6.4. Observations

None.

7.0 Assessment

I consider that the issues arising can be addressed under the following headings:

- Compliance with zoning objectives
- Impact on Amenities of Adjoining Property
- AA -Screening

7.1. Compliance with Zoning Objectives

The positioning of both the applicants' and appellants' properties is somewhat unusual in that they are served by a track that runs through a public open space with that serving the applicants' property in the ownership of Cork City Council. As noted in the documentation accompanying the application and the reports on file the Council is amenable to selling the affected lands and has consented to the making of the application.

From the details provided in the Environment (Parks) report on file the line of beech trees was planted to define the access to Lyttelton from the adjoining park. In the absence of maintenance the hedge plants have developed into the irregular shaped trees and do not constitute a line of individual specimen trees. As such, although the lands in question are zoned public open space they have been used as a vehicular access for a period of time, and whilst in public ownership does not engender the perception of an area to which public access is available. I would concur with the Senior Executive Planner that the proposal, in giving formal definition to the access arrangements, would remove any ambiguity. I would also submit that the area involved is relatively small and has little bearing on the overall size of the adjacent public open space. Therefore I am of the opinion that the proposed development would not constitute a material contravention of the zoning objective for the area.

I would also submit that by providing definition by means of the fence which will be screened by a laurel hedge inside the existing treeline, the visual amenities of the public open space adjoining would be favourably impacted upon. Whereas the appellants' note that the mesh fence proposed does not conform with the planning authority's further information requirement I submit that such type fencing is not

unusual in public open spaces. Notwithstanding it will be screened from public view by the proposed hedge.

Contrary to the appellants' view I consider that sufficient detail is provided with the application to allow for a proper assessment in terms of impact on the line of trees. In the interests of ensuring their protection I would concur with the condition requiring the location of the fence posts to be agreed.

7.2. Amenities of Adjoining Property

The appellants' property, Trabeg House, adjoins the subject site to the west with the shared boundary delineated by a fence backed with mature trees with further planting within the grounds of the dwelling. By reason of the screening provided by the said trees views of their property are largely limited to the south from the access track. I submit that the proposed fencing and hedgerow planting would have little discernible impact on views both to and from their dwelling and would not impact on its setting. I would accept that the fencing erected along their eastern boundary would be screened from view but by reason of the mature planting to its rear is not particularly evident in views available. I note that the dwelling is not a protected structure.

The positioning of the gate to be setback 4 metres from the gate to the appellants' property is sufficient to preclude obstruction of their entrance and would not impact on sightlines already available. I do not consider that there is any material advantage to requiring the setback of the entrance to the south-east. Its proposed location will clearly delineate the end of the public access and will be clearly visible.

7.3. AA – Screening

Having regard to the location of the site and the nature and scale of the proposed development no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

In conclusion, I consider the proposed fencing and boundary treatment to be acceptable, would not contravene materially the zoning objectives for the area and

would not adversely impact the amenities of adjoining property. I therefore recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the nature, scale and design of the proposed development and to the character of the general area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not contravene materially the zoning objectives for the site as set out in the current Cork City Development Plan, would respect the existing character of the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 8th day of June, 2017 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity

2.
 - (a) The proposed fence shall be powder coated and black in colour.
 - (b) The entrance shall be no wider than 3 metres.
 - (c) The gate shall be recessed and shall not open outwards.
 - (d) The gate shall consist of vertical bar railings no higher than 1.8 metres and shall be black in colour. The infill panels to either side

shall be of the same materials.

Reason: In the interest of visual amenity and traffic safety.

3. Full details of the proposed locations of the fencing posts shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of protecting the existing trees in the immediate area

4. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water shall discharge onto the public footpath or adjoining property.

Reason: In the interest of orderly development and traffic safety

Pauline Fitzpatrick
Senior Planning Inspector

October, 2017