



An
Bord
Pleanála

Inspector's Report ABP 300372-17.

Development	Retention permission for the erection of timber fencing on top of existing boundary walls to the north-east and south-west of the rear of the site.
Location	38 Woodlands Park, Blackrock, Co. Dublin.
Planning Authority	Dún Laoghaire-Rathdown Co. Co.
Planning Authority Reg. Ref.	D17A/0828
Applicants	D & A O'Connor
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant	Bernadette Hall
Observers	None
Date of Site Inspection	6/3/18
Inspector	Siobhan Carroll

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.105 hectares is located at no. 38 Woodlands Park, Blackrock in south County Dublin. This is a mature residential area comprising a mix of detached and semi-detached dwellings built in the 1930's.
- 1.2. The subject site contains a large two-storey detached dwelling. The property is served by gated vehicular accesses off Woodlands Park. The site is bounded by dwellings to the north-east and south-west. The southern boundary adjoins the laneway access to Merrion pitch and putt course
- 1.3. The dwelling has been recently extended and refurbished. It is served by a large rear garden with a length of 23m and a width of circa 18m. The north-eastern and south-western boundaries are formed by a low block wall with horizontal slat screen timber fencing.

2.0 Proposed Development

- 2.1. Retention permission is sought for the erection of timber fencing on top of existing boundary walls to the north-east and south-west of the rear of the site.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 2 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The subject timber fence for which retention permission is sought is considered in keeping with the character of the existing dwelling and pattern of development in the area. It was concluded that it would not seriously injure the residential amenities of the area.

3.2.2. Other Technical Reports

3.2.3. Draining Planning & Water Services – No objections

3.2.4. Transportation Planning – No objections

3.3. **Third Party Observations**

3.3.1. The Planning Authority received two submissions/observations in relation to the proposed development. The issues raised in one submission are similar to those set out in the appeal. The other submission supported the proposal.

4.0 **Planning History**

Reg. Ref. D16B/0433 & PL06D.247865 – Permission was granted for retention/completion of amendments to previously granted planning permission including extension, repositioning of first floor rear wall and roof lights, alterations to elevations to an existing house with all associated site works.

Reg. Ref.D15A.0185 & PL06D.244965: Permission granted for demolition of extensions, removal of chimney stacks to rear, new roof to entire house, new extension, velux roof lights, alteration to fenestration, new chimney stack and associated works.

Reg. Ref. D97B/0890 & PL06D.105832: Permission granted for an extension to the side at first floor level by Planning Authority. The appeal was withdrawn.

5.0 **Policy Context**

5.1. **Development Plan**

The site is governed by the provisions of the Dún Laoghaire – Rathdown County Development Plan 2016-2022.

The site at 38 Woodlands Park, Blackrock, Co. Dublin is located on Map 2 of the Dún Laoghaire Rathdown Development Plan and is identified as being Zoned Objective A ‘to protect and/or improve residential amenity’.

- Chapter 8 – Principles of Development
- Section 8.2.3.4 – refers to Additional Accommodation in built up areas

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant has serious concerns that the proposed development impacts upon her privacy and residential amenity. The concerns expressed are not vexatious.
- No document has been provided to certify the construction and stability of the timber fence which has been erected on the boundary wall.
- No cross section drawings have been submitted between the no. 38 and the appellant property no. 39. A cross section would show the relationship between the extension, the fence and the ground levels on both sides of the boundary.
- Drawing No: 3402 PP.4 A, submitted with ABP PL06D.247865 (Reg. Ref. D16B/0433) shows the boundary wall between no. 38 and no. 39 extending above the soffit level of the proposed extension.
- A boundary wall/fence at the height indicated on Drawing No: 3402 PP.4 A would have preserve the privacy and residential amenity of the appellant's property. It would have screened the property from direct light overspill.
- Condition no. 1 of the permission granted by the Board under ABP PL06D.247865 required that unless otherwise indicated by condition the development was adhered to the lodged plans. The proposed retention of the boundary fence would materially contravene the conditions of the Board's decision.
- The soffit level of the extension to no. 38 is above the level of the boundary wall. There is a gap between the soffit level and the top of the boundary fence which results in light overspill entering the appellant's property.
- The appellant has raised the matters of the location of floodlights and security camera within the rear garden of the appeal site.

- Reference is made to Section 8.2.3.4 of the Development Plan which refers to 'Additional Accommodation and Extensions to Dwellings'. An extract of this section states, "...a structural report may be required to determine the wall/structures to be retained and outline potential impacts on adjoining properties. This requirement should be ascertained at pre-planning stage."
- The appellant has raised the matters light and smoke overspill into her property. It is requested that the Board attach suitable conditions which would eliminate light overspill through the open lath fence and reduce downwind smoke from the garden chimney.
- The appellant has requested that a boundary wall be constructed between the properties to at least the height of the soffit of the extension.
- The appellant has requested that the floodlights and security cameras be removed in order to protect her privacy and residential amenity.
- In conclusion, it is requested that the Board require the applicants to submit a modified design for a boundary wall designed by a qualified Structural Engineer and which is mutually agreeable to both parties.

6.2. Applicant Response

- Retention permission is sought for a timber fence which was erected on the applicant's side boundary wall between their property and the appellant's property no. 39 Woodlands Park. The application was made following the advice of Dún Laoghaire Rathdown Co. Council that the timber fence was not exempted development.
- As part of the refurbishment works of the property a step down patio was created. The existing boundary between no. 38 & no. 39 was formed by a low wall. A cedar wood fence was erected, it was attached to the boundary wall at the rear of no. 38. It does not encroach on the site of no. 39.
- The fence replaces an existing wood fence of a similar height.
- The applicants consider that the appeal is vexatious. The grounds of the appeal refer to the appellant's objection to the height of the boundary wall/fence exceeding 2m in height. The appellant requests that the fence be

removed and that the existing masonry wall be extended above the eaves of the extension to no. 38. The applicants stated that this indicates that the height of the fence is therefore not an issue of concern for the appellant.

- The appellant raised the issue of a certificate of construction stability. A certificate of construction stability does not exist. There is no reason that the fence should have any impact on the structural stability of the boundary wall. A similar sized fence was previously attached to the boundary wall and it had no impact on the wall.
- The fence is a 'hit and miss' design. It features overlapping horizontal slates with a gap provided between the wall and the base of the fence. This allows the wind to pass freely under and through the fence and therefore no additional wind load is produced.
- Section 8.2.3.4 of the Development Plan states that the council may require the submission of a structural report for extensions to existing dwellings. This refers to buildings and not a boundary wall.
- The appeal refers to the lack of drawings indicating a cross section through no's 38 & 39. It is also stated in the appeal that the scales are too small to be legible when viewed on a laptop. In response to this the applicants stated that the drawings submitted with the application are fully in compliance with the Planning and Development Regulations 2001, as amended and that the application was validated by the Planning Authority.
- The appeal refers to light overspill and downwind smoke. In response to these issues the applicants stated that it is difficult to determine how an existing timber fence could result in either light overspill or downwind smoke.
- The proposal is considered minor in scale. The subject fence provides privacy for both neighbours, has an attractive design and is a structurally sound feature. It is requested that the appeal is dismissed.

6.3. Planning Authority Response

- The grounds of appeal do not raise any new matters which would justify a change in attitude of the proposed development.

- The Board is referred to the previous Planner's Report.

7.0 Assessment

The main issues of the appeal can be dealt with under the following headings:

- Impact on Visual and Residential Amenity
- Other issues
- Appropriate Assessment

7.1. Impact on Visual and Residential Amenity

- 7.1.1. The subject site contains a large detached dwelling located within a row of 10 large detached dwellings, along the south of Woodlands Park. The rear garden of the property extends back from circa 23m and shares a boundary to the south-west with no. 37 Woodlands Park and to the north-east with no. 39 Woodlands Park which is the appellant's property.
- 7.1.2. It is proposed to retain the timber fence which has been erected on top of the existing boundary walls to the north-east and south-west of the rear garden of the site. The block wall varies in height along both boundaries due to the variation in level of the rear garden. Along the north-eastern boundary the height of the wall varies between 1.6m and 0.8m. The subject fence has a height of 0.9m along the north-eastern boundary. Along 5m of the boundary adjoining the southern site boundary the fence has a height of 1.2m.
- 7.1.3. The appellant has expressed concern at the height and design of the boundary fence. Specifically, they request that a boundary wall be provided between no. 38 and no. 39 which extends above the soffit level of the rear extension. The height of the boundary wall and fence at the patio area and adjacent to the rear extension is circa 0.6m below the soffit level of the rear extension.
- 7.1.4. The ground level of the rear garden of no. 39 Woodlands Park is indicated on the site section A-A on Drawing No: 3402 RPP.02 A. The section shows the ground level of the appellant's rear garden relative to the subject boundary. At the south-eastern corner of the site the height of boundary fence is 2.4m above the ground

level of the appellant's garden. At section of the boundary along the applicant's patio the height of the boundary fence is 2.5m above the ground level of the appellant's garden. On that basis, I consider that the boundary between the two properties is of an adequate height to protect the privacy and residential amenity of the appellant's property.

7.1.5. The boundary along the south-western side of the rear garden is also formed by a low wall and timber fence. The height of the fence boundary at the applicant's patio is 2.55m above the ground level of the rear garden of no. 37. While at the south-western corner of the site the boundary the height of the boundary fence is 1.9m above the ground level of the rear garden at no. 37. I consider that the boundary between the two properties is of an adequate height to protect the privacy and residential amenity of the adjacent property to the south-western.

7.1.6. In relation to the design and finish of the boundary fence, it is of a horizontal slat screen design and constructed with a high-quality cedar wood. I am satisfied that it harmonises with the design character of the exiting dwelling and surrounding development.

7.2. **Other issues**

7.2.1. The appeal refers to a number of issues including lighting, security cameras and smoke from the garden chimney. These matters do not form part of the application and therefore are outside the Board's remit to adjudicate upon. Furthermore, the structural stability of the boundary fence is raised. This is also a matter which is outside the Board's remit to adjudicate upon.

7.2.2. The appellant raised the matter of the validity of drawings submitted with the application. In response to this I would note that, the application was deemed valid by the Planning Authority.

7.3. **Appropriate Assessment**

7.3.1. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, 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 the conservation objectives of any European site.

8.0 Recommendation

8.1. I recommend that planning permission should be granted, as set out below.

9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area, the planning history of this site, the policies and objectives of the Development Plan 2016-2022, the location of the site and the pattern of development in the vicinity, it is considered that, subject to compliance with the condition set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity. 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 retained in accordance with the plans and particulars lodged with the application.

Reason: In the interest of clarity.

Siobhan Carroll
Planning Inspector

11th of May 2018