



An  
Bord  
Pleanála

## Inspector's Report ABP-301630-18

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<b>Development</b>	Alterations to front elevation of dwelling and construction of new site boundary wall and gateway
<b>Location</b>	Gate Lodge, Orchard Avenue, Enniscough, Rathkeale, County Limerick
<b>Planning Authority</b>	Limerick City & County Council
<b>Planning Authority Reg. Ref.</b>	18156
<b>Applicant(s)</b>	James Boswell
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	James Boswell
<b>Observer(s)</b>	Lorraine Dunne & Others
<b>Date of Site Inspection</b>	11 <sup>th</sup> July, 2018
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

1.1. The site of the proposed development is located at the entrance to Orchard Avenue, a residential estate at the south-western end of the town of Rathkeale in County Limerick. The Gate Lodge is a single-storey detached house fronting onto the estate road and the estate's public open space, which adjoins the River Deel. The estate has been developed in an open plan format, exclusive of front boundary walls enclosing each property.

## **2.0 Proposed Development**

2.1. The proposed development would comprise alterations to the front elevation of the house to include fenestration changes and the construction of a 1.2 metre site boundary wall and gateway along the frontage. In a covering letter with the application, it was submitted that the green area to the front of the house could be construed as open space and that there are public liability concerns necessitating the provision of a new boundary wall.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 18<sup>th</sup> April, 2018, Limerick City & County Council decided to grant permission for the development subject to 5 conditions. Condition 2 prohibited the development of the new boundary wall.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner noted the site's planning history and third party submission made. The changes to the house were considered acceptable. The boundary wall and gate were considered unacceptable because the entire residential development is open plan, as required by a previous permission. It was also considered that it would set an undesirable precedent. A grant of permission was recommended subject to conditions.

### 3.2.2. Other Technical Reports

The Archaeologist stated there were no archaeological issues relating to the application.

### 3.3. Third Party Observations

A submission was made by Lorraine Dunne and others. The observer to the Board reflects the concerns raised.

## 4.0 Planning History

### P.A. Ref. 99/1826

Permission was granted by the planning authority for the construction of 32 semi-detached houses, 16 terraced houses, 6 detached houses and a gate lodge.

Condition 15 prohibited the provision of front boundary walls or fences because the development was designed in an open plan concept.

### P.A. Ref. 03/350

Permission was granted by the planning authority for a change of layout to entrance, roads, and location of housing units. Condition 13 prohibited the erection of front boundary fences or walls because the development was designed in an open plan concept.

## 5.0 Policy Context

### 5.1. Limerick County Development Plan 2010-2016

#### Residential Development – Urban

Where open plan estates are proposed, these shall be designed in an integrated manner where the pedestrian has priority. Open plan estates require a better level of road surface treatment such as areas of paviers, cobblelock etc.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of the appeal relate to the attachment of Condition 2 with the decision of the planning authority and may be summarised as follows:

- The property is quite different from other properties in the estate in that it has extensive front garden area and less private amenity space behind. The front lawn space could be mistaken for public open space and historically there has been a tendency for children to gather here, creating a difficult liability situation for the applicant.
- While it is acknowledged that the front of plots was conditioned in original permissions, the applicant has clear liability issues.
- The applicant is amenable to whatever height of wall or materials the Board would agree to in order to create a clear delineation.
- From an architectural perspective, the property is set out uniquely at the estate entrance and, visually, it would not be unreasonable to have the property bounded.

### 6.2. Planning Authority Response

I have no record of any response to the appeal from the planning authority.

### 6.3. Observations

The observations refer to planning permissions governing the development of the estate and to conditions that require maintenance of properties as open plan. Reference is also made to enforcement taken against a property owner in the estate who erected a boundary fence. It was submitted that the residents of the estate feel strongly about this issue.

## 7.0 Assessment

7.1. I first note that there is no objection to the proposed changes to the front elevation of the existing house. It is my submission that the proposed fenestration alterations cause no particular visual or other design concern and are, therefore, acceptable.

7.2 With regard to the attachment of Condition 2 with the decision of the planning authority, which prohibits the construction of the front boundary wall, I acknowledge the estate's planning history as being most relevant to this assessment.

7.3 Under P.A. Ref. 99/1826, permission was granted by the planning authority for the construction of 32 semi-detached houses, 16 terraced houses, 6 detached houses and a gate lodge. Condition 15 of that permission was as follows:

*“15. As this development has been designed in an open plan concept, no front boundary walls or fences shall be erected and the developer shall ensure that such a condition is binding on the purchaser of each dwelling as part of the sale agreement.”*

7.4 Under P.A. Ref. 03/350, permission was granted by the planning authority for a change of layout to entrance, roads, and location of housing units. Condition 13 of that permission was as follows:

*“13. This development shall be an open plan development, no front boundary fences or walls shall be erected and the developer shall ensure that such a condition is binding on the purchaser of each dwelling as part of the sale agreement.*

*Reason – In order to clarify the development in the interests of the proper planning and development of the area.”*

7.5 I note that the appellant is aware of the conditions of the above permissions which prohibit the construction of front boundary walls or fences.

7.6 The further development of residential properties within this estate is contingent upon compliance with conditions of original planning permissions which seek to guide the orderly development of the estate as it evolves. Condition 15 of Planning Permission 99/1826 and Condition 13 of Planning Permission 03/350 are such conditions. The development of front boundary walls/fences are clearly prohibited in

this estate in order to maintain the open plan format of the overall layout. It is evident that the appellant is aware that that these conditions are binding on him as purchaser of his dwelling. The implications of permitting the front boundary wall would inevitably result in a precedent that would facilitate and encourage a haphazard approach to the development of front boundaries within this estate and would clearly contravene the conditions of the above referenced planning permissions.

## **8.0 Recommendation**

- 8.1. I recommend the attachment of Condition No. 2 of the planning authority's decision in accordance with the following.

## **9.0 Decision**

Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to ATTACH condition number 2 and the reason therefor.

## **10.0 Reasons and Considerations**

Having regard to Condition 15 of Planning Permission 99/1826 and Condition 13 of Planning Permission 03/350, which prohibit the construction of front boundary walls or fences to individual residential properties in order that the overall estate at Orchard Avenue remains an open plan development, it is considered that the proposed construction of a front boundary wall and gateway would materially contravene the above referenced conditions, would set an undesirable precedent for

development of a similar nature within the existing estate, and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Kevin Moore  
Senior Planning Inspector

26<sup>th</sup> July 2018