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Bord  
Pleanála

## Inspector's Report ABP – 302320 – 18.

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<b>Development</b>	Construction of a rear garden fence.
<b>Location</b>	No. 3 Streamstown Wood, Malahide, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F18A/0288.
<b>Applicant</b>	Stephen McCullen.
<b>Type of Application</b>	Retention Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	First Party – V – Condition No. 2.
<b>Appellant</b>	Stephen McMullan.
<b>Observers</b>	1. Sandra & Philip Tyrell.
<b>Date of Site Inspection</b>	2 <sup>nd</sup> October 2018.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

1.1. No. 3 Streamstown Wood contains a detached two and a half storey dwelling that forms part of a near completed residential development of 21 detached dwellings which lies c1.8km to the south of Malahide's town centre. The surrounding area is characterised by low density residential development and pockets of agricultural land.

## 2.0 Proposed Development

2.1. Retention Permission is sought for a timber garden fence with a stated height ranging from 2.05m to 3.08m and stretches 27.9m along the eastern boundary of the site.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Fingal County Council **granted** permission subject to conditions. Condition No. 2 which is the subject matter of this appeal reads:

*“Within two months of the date of the final grant of planning permission, the developer shall reduce and amend the height of the subject fence so that it reflects the hashed line which indicates the ‘approximate top of the existing fence’ as set out on the drawing entitled ‘fence as built’ which was submitted as part of this application. This shall be no higher than the existing fence and associated trellis between No. 3 and 4 Streamstown Wood.*

*Reason: In the interest of visual amenity.”*

### 3.2. Planning Authority Reports

3.2.1. The **Planners Report** forms the basis of the Planning Authority's decision to grant retention permission.

3.2.2. **Other Technical Reports:** None.

### 3.3. Prescribed Bodies

3.3.1. None.

### 3.4. Third Party Observations

3.4.1. Two submissions were received from adjoining properties raising residential and visual amenity concerns.

## 4.0 Planning History

4.1.1. None relevant.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The policies and provisions of the Fingal Development Plan, 2017-2023, apply. The site lies within an area zoned 'RS' which has an aim to: "*provide for residential development and protect and improve residential amenity*".

### 5.2. Natural Heritage Designations

5.2.1. None relevant.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The grounds of appeal can be summarised as follows: -

- It is requested that Condition No. 2 be omitted and that the fence is kept as is.
- The previous boundary was detrimental to the residential amenities of this property and the adjoining property to the east due to the lack of privacy resulting from the difference in ground levels. The fence seeks to mitigate this issue.
- A 2m boundary is not sufficient to maintain an acceptable level of privacy.

- The appellant is willing to work with his neighbour to resolve their concerns.
- The fence does not pose any negative impact on the amenities.

## 6.2. Planning Authority Response

6.2.1. The Planning Authority has requested that a Section 48 contribution condition be included.

## 6.3. Observations

6.3.1. The adjoining property owner's observation can be summarised as follows: -

- The submitted drawings show inaccuracies.
- The higher boundary fence gives rise to overshadowing.
- The fence is poor in terms of its finish. It is visually obtrusive and overbearing.
- Both gardens were at the same level prior to the appellants landscaping works. These works included raising the garden levels resulting in the appellants overlooking concerns.
- Concern is raised for the future upkeep and safety issues arising from the fence.
- The additional height is excessive in a residential context.
- The Board is requested to keep Condition No. 2 or refuse retention permission.

## 7.0 Assessment

7.1.1. This is a First Party appeal which is made against Condition No. 2 attached to the Planning Authority's decision to grant retention permission. Condition No. 2 requires the reduction and amendment of the height of the fence. The appellant requests that the Board omit this condition in its entirety whereas the observers to this appeal request that the Board maintain this condition or preferably refuse retention permission for the fence. The latter is requested in the interest of protecting residential and visual amenities. This request could be considered by the Board should it decide to consider the case *de novo*.

- 7.1.2. The main issues in this appeal case are the visual and residential amenity concerns arising from the insertion of the timber boundary fence between No.s 3 and 4 Streamstown Wood. I also note that there are a few matters raised by the observer that are civil in nature and are outside of the Boards remit to address. There is also the matter of suspected raised ground level alterations to the extent that they do not meet the criterion for exempted development. This is however an enforcement for the Planning Authority to deal with as they see fit. I am satisfied that no other substantive issues arise in relation to this appeal case; notwithstanding, the matter of appropriate assessment also needs to be addressed.
- 7.1.3. In terms of visual amenity impact, I agree with the Planning Authority and the observers in this case that the fence is visually overbearing and obtrusive when viewed from No. 4 Streamstown Wood. In my view this is due to several factors. Firstly, its height is excessive in the residential context of No. 4 Streamstown Wood with it rising in places to above 3-meters. Secondly, whilst the slender cedar horizontal panelled presentation to No. 3 Streamstown Wood could be considered an attractive boundary treatment when appreciated from this property, this is not the case in terms of the fence presentation to No. 4 Streamstown Wood. From No. 4 Streamstown Wood it presents the backing to the structure that supports the horizontal cedar panelling and it displays none of the finesse and quality of that finish. Visually its presentation is an *ad hoc* patchwork of elements ranging from structural timbers, supports and metal screws. This adds to its visual incongruity with this incongruity further added too by the fact that along the rear boundary between No. 3 and 4 Streamstown Wood there appears to be two other boundary treatments in place. As a result, from No. 4 Streamstown Wood there is the visual irregularity that presents from three distinct boundaries in close proximity to one another. For these reasons I consider that the retention of the fence subject of this application in the form it has been constructed would not enhance the visual amenity of the adjoining property to the east.
- 7.1.4. In terms of residential amenity when regard is had to the orientation of No. 3 and No.4 Streamstown Wood and the height of the boundary treatment for which retention is sought it would result in an increased level of overshadowing. However, there is a need to reach a balance between privacy and the provision of qualitative private amenity space. In such suburban contexts I consider that the fence that was

and is still *in situ* prior to the construction of the fence subject of this application with heights ranging from 2.1m to 2.47m is more than acceptable in such a context. Notwithstanding, the fence subject of this application has merit as it is less porous and thus is more successful as acting as a privacy screen.

7.1.5. In conclusion, while I generally concur with the requirements of Condition No. 2 of the Planning Authority's grant of retention permission I consider that it is not sufficient to reduce and amend the height of the fence alone. This requirement is not adequate safeguard and protect the residential and visual amenities of No. 3 Streamstown Wood. In this regard, I note to the Board that the protection of their residential amenities is a requirement under the 'RS' land use zoning of the site and its setting for any development.

7.1.6. In conclusion, having regard to the amenity concerns raised I consider that there is merit in requiring that the fence treatment facing onto No. 3 Streamstown Wood be of a similar quality as its presentation onto No. 4 Streamstown Wood with the finish treatments subject to the Planning Authority's agreement. I therefore recommend that the Board amend the requirements of Condition No.2 to reflect this.

7.1.7. **Appropriate Assessment:** Having regard to the nature and scale of the proposed development and to the nature of the receiving environment, namely an urban and fully serviced location, 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

8.1. I recommend that Condition No. 2 be amended for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

9.1. Having regard to the visibility fence and the finished treatment of the fence for which retention permission is sought, it is considered that the proposed development would be acceptable subject to the amendment requiring improvement to the finished treatment addressing No. 4 Streamstown Wood, the adjoining property to the east.

Subject to this amendment the development would not seriously injure the amenity of this property in its vicinity and it therefore would be in accordance with the proper planning and sustainable development of the area.

**Condition No. 2 to read: -**

Within two months of the date of the final grant of retention permission, revised details of the subject fence shall be submitted to and agreed in writing with the Planning Authority. The revised details shall include the following: -

(a) The height of the subject fence shall be amended so that it is no higher than the original fence and trellis that separated No. 3 and No. 4 Streamstown Wood.

(b) The material treatment and finishes of the subject fence reflects shall be matching on either side addressing No. 3 and No. 4 Streamstown Wood.

The development shall be carried out in accordance with the agreed plans.

**Reason:** In the interest of visual and residential amenity.

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Patricia-Marie Young  
Planning Inspector

15<sup>th</sup> October 2018.