



An
Bord
Pleanála

Inspector's Report ABP – 303218 – 18.

Development

Retention of fence.

Location

Dún An Rí Post Primary School and Sports Hall, Turners Hill (R162), Kingscourt, Co. Cavan.

Planning Authority

Cavan County Council.

Planning Authority Reg. Ref.

17/496.

Applicant

Cavan and Monaghan ETB.

Type of Application

Retention.

Planning Authority Decision

Grant.

Type of Appeal

Third Party

Appellant

Noreen Rooney.

Observer(s)

None.

Date of Site Inspection

20th March 2019.

Inspector

Patricia-Marie Young.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	4
3.4. Third Party Observations	4
4.0 Planning History.....	4
5.0 Policy and Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations	5
5.3. Environmental Impact Assessment	5
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.2. Applicant Response	6
6.3. Planning Authority Response	6
6.4. Further Responses.....	6
7.0 Assessment	6
8.0 Recommendation.....	9
9.0 Reasons and Considerations.....	10
10.0 Conditions	10

1.0 Site Location and Description

- 1.1. The appeal site has a stated 0.007ha area and it forms part of the recently constructed and operational Dún An Rí Post Primary School complex which is setback from the eastern side of the R162 in Turners Hill, Kingscourt, Co. Cavan. The entrance serving the school complex is situated c100m to the north of the R162's intersection with the R165.
- 1.2. Part of the south western boundary of the school complex bound the rear gardens of several residential properties with frontage onto the R162. These properties occupy substantially higher ground levels and there are a mixture of boundary treatments present including a recently added 2.4m in height green wire mesh fence with shade netting.
- 1.3. The surrounding area has an edge of settlement character with a mixture of residential, educational and agricultural uses present.

2.0 Proposed Development

- 2.1. Retention permission is sought for a 2.4m in height, rigid, green wire mesh fence with 90% shade netting, with an approximate overall length of 90-meters and metal supports.
- 2.2. The applicant's response to the Planning Authority's request for further information rejected the replacement of the fence with a solid wall or other fence structure.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to **grant** retention permission subject to conditions including –

Condition No. 2 – This condition requires an enhanced landscape plan be submitted for agreement within a specified time frame. Of note it indicates that this plan shall incorporate a semi-mature hedge planting with a minimum height minimum of 1.5m height at the base of the entire length of the wire mesh fence to be retained.

Condition No. 3 – This condition sets out a specified time frame for the implementation and complete of the landscape plan required under Condition No. 2.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The **final Planning Officers** report whilst considering that the retention of the development sought would give rise to privacy and visual amenity issues for the adjoining residential properties that subject to the provision of more robust planting that over time these concerns would be appropriately addressed.

3.2.2. **Other Technical Reports**

Municipal District Engineers Report: No objection.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. A submission was received from the appellant raising similar concerns to those raised in the grounds of appeal submission. (See: Section 6 below).

4.0 **Planning History**

P.A. Reg. Ref. No. 15/277: Planning permission was **granted** for a development described as a) the relocation of a low stone wall on Turner's Hill to allow for the provision of a new footpath along the roadside frontage; b) construction of a new split level 2-storey/3-storey/4-storey Post Primary School and connected Sports Hall, new internal road with set-down area, ancillary boiler room/boiler house; car parking; ball courts; landscaping; and, all associated site works.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The appeal site is situated within the development envelope of the settlement of Kingscourt which is subject to the Cavan County Development Plan, 2014-2020. Under this plan the site is zoned public and community lands.

5.2. Natural Heritage Designations

- 5.2.1. None relevant.

5.3. Environmental Impact Assessment

- 5.3.1. Having regard to the serviced nature of the site, the minor nature and scale of the development for which retention is sought, the lack of any direct hydrological connectivity from the site to any nearby sensitive receptors, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. Therefore, the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows –
- The appellant objects to the retention of the subject mesh fence and shade netting.
 - This fence and netting is visually unsightly, and it has diminished residential amenities of her property by way of reduced levels of privacy.
 - Concerns are raised that in time the fence and shade netting will become unsafe.
 - The appellant is willing to reach an agreement with the applicant to achieve a more suitable boundary solution.

6.2. Applicant Response

6.2.1. The applicant's response can be summarised as follows -

- The subject fence is temporary in nature. This fence seeks to deal with the period whilst planting matures and it provides adequate privacy to the appellants property.
- The subject fence allows free drainage flow from the appellants property.
- The Board does not have it in their remit to insist on a type of fence that was not requested by the applicant, sought by way of condition by the Council and/or sought by the appellant.

6.3. Planning Authority Response

6.3.1. The Planning Authority's response can be summarised as follows -

- The points raised by the appellant have been assessed in their Planners Report.
- The Board is requested to uphold their decision.

6.4. Further Responses

6.4.1. The **Appellants** further response can be summarised as follows –

- The planting that is in place is not flourishing and views are visible through the mesh to the school and from the school into their property.
- Concerns are raised to the applicants describing the fence as being temporary in nature and what will be put in permanently in its place.

6.4.2. The **Planning Authority's** further response can be summarised as follows -

- No further new information has been raised.

7.0 Assessment

7.1. Overview

7.2. The main issues in this appeal are the residential and visual amenity concerns raised by the appellant in their grounds of appeal and I am satisfied that no other

substantive issues arise. Notwithstanding, the need of appropriate assessment also needs to be addressed.

7.3. Amenity Impact

- 7.3.1. The potential substantive impacts to consider from the development sought in terms of residential amenity impact are visual intrusion/visual overbearance and diminishment of privacy.
- 7.3.2. Having inspected the site and its setting the fence and its associated shade netting, I acknowledge that it is highly visible from the appellants property as well as from other residential properties that bound the 90m length for which retention is now sought and that it is a boundary treatment that is at odds with the residential character of these established and mature residential properties.
- 7.3.3. I also observed that the boundary that is *in situ* around the appellants property which consists of low fence and wire more typical of an agricultural boundary provided no visual screening between the appellants property and the adjoining landscape. I consider that this was not an issue prior to the construction of the school complex in c2015 as the appellants property would have adjoined agricultural land and as such privacy between the two different land uses was not a substantive issue. With the construction and the recent operation of the school together with the significant difference in ground levels between the appellants property, the rear garden area of the appellants property and the adjoining school complex there has been a significant diminishment of privacy for the appellants property.
- 7.3.4. The above factors together with the need to provide a secure boundary around the school complex and to also deter unauthorised access from the school premises into the rear of the appellants property as well as other residential properties bounding part of the south western boundary of the school complex results in the need for an appropriate boundary to be provided at this juxtaposition. However, I consider that the difference in ground levels is a more difficult situation to resolve in terms of securing privacy as the height of screening that would be required to secure any improvements to the privacy levels of the appellants dwelling and its first-floor level balcony areas is not practical to provide. Notwithstanding, the appellants property benefits from a substantial rear garden area with a significant portion of it being at similar levels to the subject fence. It is therefore possible to still secure a level of

outdoor private amenity space for residents of the appellants property albeit more remote from the rear of the dwelling.

- 7.3.5. The provision of the 2.4m in height, rigid, green mesh with 90% shade netting and with an approximate overall length of 90-meters for which retention is being sought, though I note that what is *in situ* extends for a much greater distance along the perimeters of the school complex, for which I can find no planning consent for, seeks to meet this need. The latter is an enforcement matter for which the Planning Authority to deal with as they see fit. In relation to the section for which retention permission is sought the applicant in their response indicates that this boundary is temporary in nature and they indicate that it will be removed once the planting that bounds it has matured.
- 7.3.6. Of concern the public notices do not refer to the 90m stretch of fencing for which retention is sought as being temporary in nature and of further concern the planting that is *in situ* which is to form a permanent hedge in future is highly porous and contains little in the way of evergreen hedge species. While there are merits to providing a natural hedge boundary between the school complex and the residential properties that bound it I consider a more suitable boundary is needed to that present.
- 7.3.7. In terms of determining whether the boundary is suitable in this site-specific context I consider it needs to be able to perform several functions. Including but not limited to providing privacy throughout the year; security; it should be easy to maintain without requiring access to properties outside of the applicants control (considering that it would appear that the applicant does not wish to meet a mutual agreement to provide a shared boundary to demarcate the school and the appellants property) through to it being visually acceptable against the more sensitive land use which it adjoins which in this case I consider is the residential properties.
- 7.3.8. I am of the view that the subject boundary in the short, medium to long term will not perform these functions robustly in a manner that protects and safeguards the residential amenities of the properties that adjoin the south western boundary of the school complex. In particular, the appellants who opted to have relatively open views to the rear of their property to enjoy the views of the adjoining countryside.

- 7.3.9. In general, I share the view of the Planning Authority in this instance that the provision of a more enhanced landscaping plan along the length of the appellants property planting would in time provide visual and privacy improvements for the appellants property as well as other adjoining residential properties along the south western boundary of the school complex. This is provided for under Condition No. 2 of their grant of retention permission. Notwithstanding, I consider that this condition needs to be made more robust alongside that the 1.5m semi-mature hedge planting should be continuous along the 90m length of the fence but it should be provided at a setback location from the wire mesh fence with this setback location along for the hedge to be maintained without the requirement of accessing on land outside of the control of the applicants.
- 7.3.10. The provision of a continuous and evergreen hedge would result in better privacy for the residential properties bounding the south western boundary.
- 7.3.11. These measures together with more robust tree and hedge planting which would form part of an enhanced landscape scheme along the subject boundary would in my opinion be more appropriate and sustainable in the long-term.
- 7.3.12. Subject to the above recommendations I raise no other substantive concerns to the retention of the development sought under this application.

7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the development sought under this application and the nature of the receiving environment together with the proximity of 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 and projects on a European site.

8.0 **Recommendation**

- 8.1. I recommend a **grant** of planning permission based on the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the public and community zoning of the subject lands, it is considered that the retention of the 2.4m in height, rigid, green wire mesh fence with 90% shade netting and with an approximate overall length of 90-meters, subject to conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity and would in time result in improvements to the existing situation. 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, 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 in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Within 1-month of the date of this permission the developer shall submit and agree in writing with the planning authority a comprehensive landscape and boundary scheme for the south western boundary of the site. This scheme shall include the following:
 - (a) Details of an evergreen semi-mature hedge of a minimum 1.5m height along the 90m fence which shall be suitably setback from the wire fence to allow for on-site maintenance and the removal of the wire fence when the evergreen hedge has reached 2.4m in height.
 - (b) Proposed locations of trees and other landscape planting to reinforce the existing planting along the south western boundary of the site including details of species and maturity of planting to be used.

The boundary treatment and landscaping scheme shall be carried out in accordance with the agreed scheme. Any plants which die, are removed or

become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

3. Within two months of attaining the agreement of the planning authority the requirements of Condition No. 2, the developer shall implement and complete in full the agreed landscaping plan required by the same planning condition.

Reason: In the interests of orderly development.

Patricia-Marie Young
Planning Inspector
3rd April 2019.