



An
Bord
Pleanála

Inspector's Report

ABP-304117-19

Development	Retain existing front boundary walls, associated tarmac to road edge and bollards and chains
Location	Clonabeg, Clonaslee, Co.Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	19/23
Applicant(s)	Colin Mahon
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Colin Mahon.
Observer(s)	none
Date of Site Inspection	26 th June, 2019
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area to the west of Mountmellick and c. 2km to the north of the village of Clonaslee. The site is accessed via a narrow cul de sac that connects with the local road that runs north out of Clonaslee village in the direction of the N80 (Mountmellick to Tullamore) national secondary road. This cul de sac road is characterised by a narrow carriageway width that is only capable of accommodating a single car along significant sections of its length, a number of sharp bends and a generally low volume of vehicular traffic reflective of the approximately 10 no. residential properties and limited number of agricultural accesses that are accessed via the road.
- 1.2. The appeal site is currently occupied by a two storey dwelling centrally located on the site. The front boundary of the house as constructed comprises a plastered and capped boundary wall set back c.3.1 metres from the edge of the road with a splayed recessed entrance located towards the eastern end of the boundary. The area between the road edge and the site boundary wall is tarmacked and an area each side of the entrance between the boundary wall and the road edge is enclosed by the erection of metal posts linked by chain.
- 1.3. The stated area of the appeal site is 0.30 ha. The length of the site frontage to the road is approximately 45 metres.

2.0 Proposed Development

- 2.1. The application is for the retention of the existing front boundary walls to the site, associated tarmac to the road edge and bollards and chains.
- 2.2. The extent of tarmac area extends from the setback boundary wall on either side of the entrance and extends over the full area between these boundary walls and what was the edge of the public road.
- 2.3. The posts enclosing the area between the boundary walls and the road edge on either side of the site access are metal of approximately 800mm in height and are connected by chains which enclose the area between the boundary walls and the road edge on either side of the entrance.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a split decision as follows:

Notification of Decision to Refuse Permission issued for the retention of the bollards and chains for a reason relating to the narrow width and alignment of the public road and position of the bollards would result in a safety hazard for road users and would therefore be contrary to the proper planning and sustainable development of the area.

Notification of Decision to Grant Permission issued for the retention of the boundary walls and tarmac area located between the wall and road edge subject to two conditions which are standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes the concerns expressed by the area engineer regarding the traffic safety implications of the proposed development. A split decision consistent with the Notification of Decision which issued is recommended.

3.2.2. Other Technical Reports

Area Engineer – Report states that there is an objection to the proposed development on the basis that the steel bollards at the edge of the road pavement are considered an unprotected hazard within the clear zone of the road. No objection to the wall or tarmacked area.

3.3. Third Party Observations

One submission received by the Planning Authority which objects to the development on the basis that the bollards and chains narrow the road at a point where there is a drop into the field opposite. Also expresses concerns regarding the use of a wall rather than a hedgerow and the naming of the development.

4.0 Planning History

Laois County Council Ref. 07/2013 – Permission granted for a dormer style house detached domestic garage and effluent treatment system. The site layout plan submitted with this application indicates a front boundary ‘fence / wall / hedge’ set back approximately 3 metres from the road edge. Condition No.7 requires that the front building line to the development shall be as per that indicated on the Site Layout Plan drawing (No.07-CM-03). Condition No.13 relates to landscaping and requires that a hedgerow of mixed native species interspersed on the inside with native tree species is provided on the front boundary, with the boundary to be secured only by timber post and wire fencing to the inside. Condition 13(c) requires that all areas forward of the sight splays and the entrance except the access way shall be grassed up to the edge of the road, and that no wall, except for the wing walls at the access, shall be erected as part of the boundary.

Enforcement Notice Ref. UD18/97 – a warning letter issued to the first party regarding non compliance with Conditions Nos. 1, 13(a), 13(c) and 13(d) of the above permission.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the *Laois County Development Plan, 2017-2023*.

The site is located within a structurally weak rural area.

Policy DM19 relates to house extensions / alterations.

Policy DM44 relates to road standards.

Appendix 7 of the Plan relates to rural house design and rural housing design.

5.2. Natural Heritage Designations

The site is not located within or close to any designated European site.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the grounds of appeal:

- That the purpose of the bollards is to protect the boundary wall which has been damaged by passing machinery prior to the erection of the bollards. Photographs of damage to the wall are submitted.
- That there would be damage to the tarmac area if heavy machinery was able to access it.
- That the father of the first party is the owner of the surrounding lands and all hedgerows are always cut and well maintained.
- That the fathers house 50 metres away from the site has had bollards and chains to the front for the last 25 years.
- That the bollards and chains have been in place for two years and have not been an issue for the neighbours.
- That there are 10 houses on the laneway and the only objection was from a resident who no longer drives.

6.2. Planning Authority Response

No further submission received from the Planning Authority.

7.0 Assessment

7.1. The following are considered to be the main issue in the assessment of the development which is proposed for retention:

- Visual impact,
- Traffic safety impact,
- Other issues
- Appropriate assessment

7.2. Visual Impact,

- 7.2.1. The site is located in a rural area and on a minor road which is a cul de sac and where there is a limited amount of passing traffic. The surrounding lands are relatively flat and the nature of the site is therefore such that the elements proposed for retention are only visible to local traffic passing the site.
- 7.2.2. The dwelling on the appeal site was permitted under Ref. 07/2013 and the Site Layout Plan submitted with this application indicates the alignment of the front boundary and an indication that this could be a fence, a wall or a hedge. As per Condition No. 7(a) of the grant of permission issued, the front building line is required to be as per this submitted Site Layout Plan (Drg. No. 07-CM-03), albeit it would appear that the entrance as constructed is located slightly further to the west than the location as per the permitted drawings. Condition No.13 of Ref. 07/2013 requires that, with the exception of the wing walls to the entrance, the front boundary would be a hedgerow reinforced / back planted with trees and that the area between the boundary and the road was to be grassed forward of the sight splays.
- 7.2.3. The use of a hedgerow boundary to the site would, in my opinion, be more in keeping with the sites rural location and would help to screen the dwelling from vies from the public road. The site is however located in an area that is off the main local road, has no through traffic and is in an area where there is no particular landscape sensitivity or prevailing pattern of boundary treatment. The existing rendered boundary wall is relatively low in height at c. 1.0 metres and is not in my opinion particularly visually intrusive. In the event that the retention of the alternative boundary treatment incorporating the wall is granted retention, it is however recommended that some landscaping of the boundary would be required with the boundary wall being back planted with native species.
- 7.2.4. Similarly with regard to the area between the site boundary and the road, the effect of the use of tarmac over the entirety of the area, rather than the partially grassed area as specified in Condition 13(c) of Ref. 07/2013, is to create a more visually prominent form of development that does not integrate particularly well with the rural context. Having regard to the location of the site and limited extent of views of the site it is on balance considered that the retention of the tarmacked area between the site boundary and the road edge is acceptable in terms of visual amenity.

7.3. Traffic Safety Impact,

- 7.3.1. The works undertaken and which form the subject of this appeal do not in my opinion have any adverse impact on traffic safety arising from traffic movements into and out of the site. Specifically, the design and height of the bollards and chains are such that the visibility of a vehicle exiting the site is not significantly impeded by the presence of these structures even though they are partially located within the visibility splay from the entrance.
- 7.3.2. On the issue of visibility, it is noted that the entrance as constructed is in a position slightly further west from the position permitted in Ref. 07/2013. This results in the sight line available to the west of the entrance being reduced by c.10 metres from the 90 metre sight line indicated in originally permitted Site Layout Plan. This change is not included as part of the current application for retention which is the subject of appeal. Given the very narrow road width and limited traffic volumes, the impact on traffic safety arising from the change to the entrance location is not in my opinion significant.
- 7.3.3. In my opinion of greater concern with regard to traffic safety is the fact that the posts and chains erected on site are located such that they are very close to the boundary with the public road. The nature of the bollards are that they would form a significant hazard for vehicles and the treatment of the area between the boundary of the house and the road edge, being covered in tarmac, makes it potentially difficult for the drivers of vehicles to distinguish where the road ends and the tarmacked area to the front of the boundary wall begins.
- 7.3.4. I note the photographs submitted by the first party appellant which show some damage to the boundary wall. The implications for traffic safety of the posts and chains are however, in my opinion, such that their retention to prevent the kind of damage indicated is not justifiable. It also has to be noted that in the event that the front boundary and the verge area between the boundary and the public road had been constructed as per the requirements of the permission granted (Ref. 07/2013) then there would be no requirement for the posts and chains.

7.4. **Other Issues**

7.4.1. I note the fact that the appellant states that the bollard and chains have been in place for two years at the appeal site and that the adjacent site owned by the father of the appellant has had a similar form of development for the last 25 years. The fact that there is stated to be no evidence of traffic safety issue arising is not in my opinion a basis why retention should be granted in this case. The comments of the Planning Officer regarding the precedent that would potentially be created by the granting of retention in this case is also noted and agreed with.

7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

Having regard to the above, it is recommended that permission be refused for the retention of the bollards and chains for the reasons and considerations set out at Reasons and Considerations (1) and,

That permission is granted for the retention of the existing front boundary walls, associated tarmac area between the boundary walls and road edge for the reasons and Considerations set out at Reasons and Considerations (2) and subject to the attached conditions

9.0 **Reasons and Considerations**

Reasons and Considerations (1)

Having regard to the narrow width of the public road, to the design of the development for which retention is sought and in particular the proximity of the bollards to the public carriageway and lack of distinction between the public road surface and the verge area between the boundary wall of the dwelling and the public road, it is considered that the bollards and chains for which retention is sought would result in an unprotected hazard for road users, such that the retention of these elements would result in the creation of a traffic hazard and obstruction of road users at this location. The retention of these elements would therefore be contrary to the proper planning and sustainable development of the area.

Reasons and Considerations (2)

Having regard to the location of the site on a narrow local road that is not a through road and which is characterised by low volumes of traffic area, to the design of the boundary wall proposed for retention and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not be prejudicial to public health 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 to be retained 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. All surface water runoff from the entrance and roadside area shall be collected and disposed of within the site and no such surface water shall be allowed to drain onto the public road.

Reason: to prevent the flooding of the public road and in the interests of traffic safety.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority within 3 months of the date of this grant of permission. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) Proposals for the planting of all new site boundaries created by the construction of the dwelling on the site, including proposals for the back planting of the roadside boundary where the retention of the boundary wall is permitted.

(ii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder

(b) A timescale for implementation.

All planting shall be adequately protected from damage until established. 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 interest of residential and visual amenity

Stephen Kay
Planning Inspector

5th July, 2019