



An
Bord
Pleanála

Inspector's Report

ABP-305141-19

Development	Retention Permission for a fence
Location	Fairways, 18 Foster's Avenue, Mount Merrion, Blackrock, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19B/0258
Applicant(s)	Graham Murray
Type of Application	Permission for retention
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Graham Murray
Observer(s)	1. Frankie and Declan McSweeney 2. JP and Caitriona Flynn 3. Gavan and Angela Carty
Date of Site Inspection	17 th October 2019

Inspector

Emer Doyle

1.0 Site Location and Description

- 1.1. The site is located on the south eastern side of Fosters Avenue, Mount Merrion, Co. Dublin. It is a corner site with a small residential cul de sac known as 'The Fosters.'
- 1.2. The Foster's consists of 6 detached dwellings. No. 6 The Foster's is a newly built dwelling and is the only dwelling with a wooden fence as part of the boundary treatment. All the other dwellings have evergreen hedgerow as their front boundary.
- 1.3. There is a wide variety of boundary treatments in the general vicinity of the site.

2.0 Proposed Development

- 2.1. Retention permission is sought for a wooden fence that varies in height between 2m and 2.1m along the south western boundary of the site.

3.0 Planning Authority Decision

3.1. Decision

Permission refused by the Planning Authority for one reason relating to visual amenity and development plan policy in relation to boundary treatments.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report considers that the fence does not comply with Development Plan policy in relation to boundary treatments and would seriously injure the visual amenities of the area.

3.2.2. Other Technical Reports

- Drainage Planning – No objection.

3.3. Prescribed Bodies

- No reports.

3.4. **Third Party Observations**

A total of 3 No. submissions/ observations were submitted to the Planning Authority. The issues raised are similar to the issues raised in the observations submitted to the Board.

4.0 **Planning History**

Enforcement : Enf 3619

Open file in relation to non-compliance with condition 1 of ABP Ref. PL06D.245135 in relation to boundary treatment.

PA D15A/0281/ PL06D.245135

Permission granted by the PA and by the Board on appeal for demolition of outbuildings and renovations and extension to existing dwelling. Plans submitted for the south western elevation indicated that it was proposed to retain the existing hedgerow along this boundary and provide a new hardwood fence for c. 5.2m of the boundary adjacent to the infill property at No. 6 Foster's Avenue. It was proposed that this would provide for a pedestrian entrance and would be set back c.7m from the existing entrance.

No. 6 Foster's Avenue

D15A/0732/ PL06D.246176

Permission granted by PA and by the Board on appeal for infill house to the rear of current site.

D15A/0282

Permission refused by PA for infill house to the rear of current site.

5.0 Policy Context

5.1. Development Plan

Dun Laoghaire Rathdown County Development Plan 2016-2022

The subject site is located on lands zoned 'A' with a stated objective 'to protect and/or improve residential amenity.'

Relevant policies include the following:

Section 8.2.8.4 (iii) Boundaries

'In all cases, suitable boundary treatments both around the side and between proposed dwellings shall be provided.... Boundaries located to the front of dwellings should generally consist of softer, more open boundary treatments, such as low-level walls/railings and/or hedging/ planted treatments. Details of all existing and proposed boundary treatments should be submitted as part of any planning application and include details in relation to proposed materials, finishes, and in the case of planted boundaries, details in respect of species together with a planting schedule.

Section 8.2.8.6 Trees and Hedgerows

'The retention of existing planted site boundaries will be encouraged within new developments, particularly where it is considered that the existing boundary adds positively to the character visual amenity of the area. New developments should have regard to the location of new buildings/ extensions relative to planted boundaries. Prior to construction, the applicant shall provide details of adequate measures on site to protect all planting/ trees to be retained and this protection shall be maintained throughout the development during the construction period.

5.2. Natural Heritage Designations

None.

5.3. EIA Screening

Having regard to the nature and scale of the development, it is considered that there is no real likelihood of significant effects on the environment arising from the

proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- It was discovered during construction that the roots of the hedgerow had grown up to the external wall of the bungalow and were in the first instance compromising the weathering of the building and reduced the clear width down the side lane of the property to c.450mm. This coupled with the specification to externally insulate the bungalow made it impossible to retain the hedgerow and so it was removed.
- There is no preservation order on this vegetation and there is precedent on the street for removal of same.
- A decision was taken not to plant a new hedgerow as it was felt the boundary along the bungalow would in future compromise the building and access to the side lane as before.
- It is contended that the fence installed along the front boundary from the front corner of the bungalow down to the end of the rear garden qualifies as exempted development. The portion to the front garden would qualify as exempted if it was reduced to 1.2 in height.
- There are several precedents in the area including the adjoining boundary at No. 6 Fosters Ave., No. 1 The Close, Mount Merrion, and No. 23 Roebuck Avenue.
- It is proposed to reduce the height of the fence to the front garden to the permissible exempted height of 1.2m and in addition, plant a new hedge behind this section of fence to mature over time to the same height and scale as the fence. This will soften the corner as the hedge matures over time. In addition, it is proposed to paint the entire fence a dark colour, to be agreed with the planning authority.

6.2. **Planning Authority Response**

- The Board is referred to the previous planner's report. It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.3. **Observations**

6.4. Three No. observations were submitted to the Board which can be summarised as follows:

- The Fosters cul de sac is a small road with only 6 houses. A major part of its character is the leafy evergreen hedging and mature trees. The removal of the hedge and its replacement with a 'cheap and ugly fence' is out of character with the cul de sac.
- The appellant at no times engaged with the residents of 'The Fosters' in a conciliatory approach or respected their concerns.
- There is no photographic evidence of roots of hedgerow growing into the external wall of the bungalow.
- The analysis set out in the appeal with regard to exempted development is incorrect.
- The precedents cited by the appellants are distinguishable from the current case.
- The proposal that the fence should be painted a dark colour does little to mitigate our concerns in relation to the negative visual impact.

7.0 **Assessment**

7.1. Having examined the file and visited the site I consider that the main issues in this case relate to:

- Visual Impact
- Appropriate Assessment

7.2. Visual Impact

- 7.2.1. The applicant has removed the hedgerow along the south-western boundary with 'The Fosters' which is a cul de sac of 6 No. detached dwellings off Foster's Avenue. No. 6 'The Foster's' is an infill dwelling recently constructed on the adjoining site to the south of the site. The boundary of No. 6 'The Foster's' is shown in Photograph 4 and consists partially of a timber fence part of which is set back from the footpath with planting in front.
- 7.2.2. The issue is that permission was not carried out in accordance with the drawings submitted in the history file granted under PL06D.245135 and condition 1 of this permission. The drawings indicated that for the south western boundary at this location, it was proposed to retain the existing wire fence and trim the existing hedge for the majority of the boundary and set back a small portion of the boundary adjacent to No. 6 c. .7m from the boundary to provide for a 2.4m high treated hardwood screen.
- 7.2.3. The observations submitted consider that a major part of the character of The Foster's cul de sac is the leafy evergreen hedging and mature trees. It is considered that the removal of the hedge and its replacement with a 'cheap and ugly' fence is out of character with the cul de sac.
- 7.2.4. I accept that all the existing housing in this cul de sac other than the infill house on the adjacent site have evergreen hedging as their front boundary, however, I note that all the older houses are well set back from the boundary and not comparable with this corner site where the side boundary is in close proximity to the footpath at this location.
- 7.2.5. The appeal states that 'it was discovered during construction that the roots of the hedgerow had grown up to the external wall of the bungalow and were in the first instance compromising the weathering of the building and reduced the clear width down the side of the property to c.450mm. This coupled with the specification to

externally insulate the bungalow made it impossible to retain the hedgerow and so it was removed.'

- 7.2.6. Whilst policies in the Dun Laoghaire Rathdown County Council generally encourage the retention of existing planted site boundaries, I consider that due to the circumstances outlined above, it would not have been practical to retain the boundary in this instance.
- 7.2.7. I note that the appeal puts forward the case that part of the fence would qualify as exempted development. It is my view that the both the applicant and the Planning Authority have accepted that planning permission is required and the contravention of condition 1 of the previous permission would de-exempt any part of the fence as exempted development.
- 7.2.8. The appeal proposes to reduce the height of the fence to 1.2m to the front garden section of the fence and plant new hedgerow behind the fence and paint all of the fence and concrete posts a dark colour.
- 7.2.9. I refer the Board to Figures 3.1 and 4.5 of the appeal. Whilst the reduction in the height of the fence to 1.2m in the front garden section together with the planting of a hedge behind this would impact positively on the visual impact of the fence, I consider that painting the fence a dark colour would detract from the character of the area and in particular would contrast very sharply with the newly built natural coloured fence at No. 6 The Foster's.
- 7.2.10. Overall, I consider that the applicant has provided adequate justification for the removal of the existing hedgerow having regard to the circumstances outlined above. The existing fence is typical of many fences in the general area where there is a great variety of boundary treatments. It is not the front boundary of the dwelling and is visible predominantly from a short section of Foster's Avenue and the 6 No. houses within 'The Fosters.'
- 7.2.11. Provided that the fence is lowered to 1.2m to the front of the dwelling and a hedge is planted inside it as outlined in the documentation submitted to the Board, I do not consider that the retention and completion of the boundary fence would detract from the character of the area to such a degree that would warrant a refusal in this case.

7.3. **Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the development and proximity to the nearest Natura 2000 site, I am satisfied that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

8.0 **Recommendation**

- 8.1. Based on the above assessment, I recommend that permission be granted for reasons and considerations set out below:

9.0 **Reasons and Considerations**

- 9.1. Having regard to the variety of boundary treatments in the area and to the pattern of development in the area, it is considered that the development proposed to be retained and completed, subject to compliance with the conditions set out below, would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity. The development proposed to be retained and completed would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions**

1. The development shall be retained, 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 and the development shall be retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The fence shall be reduced to the front of the dwelling to a height of 1.2m and an evergreen hedgerow shall be planted inside the existing fenceline for distance of c. 10.2m from the front building wall of the dwelling to the front boundary.

(b) The colour of the fence shall be in character with adjoining development to the south unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

Emer Doyle
Planning Inspector
24th of October 2019