



An
Bord
Pleanála

Inspector's Report ABP-305584-19

Development	Retention of timber panel fence with concrete posts.
Location	Larrix Street, Duleek, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	LB191015
Applicant(s)	Jason Ellard.
Type of Application	Retention.
Planning Authority Decision	To refuse.
Type of Appeal	First Party
Appellant(s)	Jason Ellard.
Observer(s)	Sean and Catherine Powderly
Date of Site Inspection	10 th February 2019.
Inspector	Deirdre MacGabhann

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	3
3.3. Third Party Observations	4
4.0 Planning History.....	4
5.0 Policy Context.....	4
5.1. Meath County Development Plan 2013 - 2019.....	4
5.2. Natural Heritage Designations	5
5.3. EIA Screening	5
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.2. Planning Authority Response	7
6.3. Observations.....	7
7.0 Assessment.....	8
7.4. Urban Design	8
7.5. Impact on Residential Amenity.....	9
7.6. Alternative Design	9
8.0 Appropriate Assessment.....	9
9.0 Recommendation.....	10
10.0 Reasons and Considerations	10

1.0 Site Location and Description

- 1.1. The appeal site is situated in the town of Duleek, County Meath. It lies on the western side of a minor road, Larrix Street, to the north of the town centre. Development in the vicinity of the site is principally single storey dwellings on large sites set back from the public road.
- 1.2. The site comprises a single storey residential dwelling and its curtilage. A c.1.85m high timber panel fence has been constructed along the frontage of the site and along part of its northern boundary, adjoining the single storey traditional property to the north of the site. Larrix Street, as it passes the appeal site, turns sharply east.

2.0 Proposed Development

- 2.1. The proposed development comprises a c.13m long, not greater than 2m high panel fence with concrete posts to front boundary of the site.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority refused permission for the development (10th September 2019) on the grounds that (i) having regard to the prominent location of the site and established character of the area, the development by virtue of its height, scale and form did not integrate with the existing pattern of development and would be out of character with the architectural form of the area, and (ii) having regard to its location directly in front of the neighbouring property, the development would seriously injure the residential and visual amenity of the neighbouring dwelling to the north.

3.2. Planning Authority Reports

- 3.2.1. The Planning Reports (5th September 2019), raises the following concerns:
 - Discrepancy in lands associated with the site, comparing the subject application to a previous planning application for same lands under PA ref. SA100181. No evidence of ownership of lands extending beyond previous boundary and now enclosed by fence.

- Impact on adjoining property (access to front boundary wall, no letter of consent for works).
- Irish Water mains supply now located within the red line boundary of the application site.
- Impact on character of lane.

3.3. Third Party Observations

3.3.1. The owners of the property to the north of the site make the following observations:

- Fence was erected up against and in front of observer's property, blocking the front view and preventing access to front of observer's wall.
- It is erected on a public green area, which previously had a pump on it which was used by everyone in the area.
- Impact of fence on character of lane and view of traditional labourer's property.
- Fence is a traffic hazard (for pedestrians and vehicles) as it has made the lane very narrow.

4.0 Planning History

- PA ref. SA100181 – Permission for extension of bungalow on subject site.

5.0 Policy Context

5.1. Meath County Development Plan 2013 - 2019

5.1.1. The appeal site is principally zoned A1, 'To protect and enhance the amenity of developed residential communities'. The section of the site upon which the fence has been constructed, is shown as part of the public road.

5.1.2. Section 2.9.6 of the Plan states that the planning authority will be primarily concerned with the protection of the amenities of established residents and that while redevelopment proposals would be acceptable in principle, careful

consideration would have to be given to protecting amenities such as privacy, daylight/sunlight and aspect in new proposals.

- 5.1.3. In volume 5 of the Plan, Policy UD POL 1 of the Duleek Written Statement seeks to *'promote the development of a high quality, sympathetically designed, well landscaped and appropriately scaled environment that is in keeping with the existing character, amenity, environment, heritage and landscape of the village'*.

5.2. Natural Heritage Designations

- 5.2.1. The nearest site of nature conservation interest lies c.300m to the north of the site and comprises Duleek Commons, proposed NHA (site code 00158). The nearest European site lies c.5km to the north west and comprises the River Boyne and River Blackwater SAC and SPA (site codes 002299 and 004232 respectively).

5.3. EIA Screening

- 5.3.1. The proposed development comprises minor construction works and is not of a scale to warrant environmental impact assessment.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Grounds of appeal:
- Confirm that the applicant is the owner of the appeal site (see Appendix 3 of submission for Land Registry Folio map). Prior to erecting the fence he removed a hedge which may have previously been mistaken as marking the extent of his ownership.
 - Applicant was unaware that the fence that was erected needed planning permission.
 - The design of the fence was driven by the applicant's concerns regarding safety and security (as advised by An Garda Síochána – Appendix 5).

- The fence follows the line of the appellant's property boundary, is appropriate in height for security reasons, and is appropriately finished in timber and is similar to other boundary treatments in these respects.
- The fence does not harm the residential or visual amenity of the property to the north. It is not appropriate to seek to preserve the entire existing extent of views of this property from Larrix Street, especially given the security considerations relevant to the development.
- The fence does not obstruct the roadway/sightlines. There are no footpaths on Larrix Street at this location and the fence is setback a similar distance to other property boundaries. The Transportation has raised no objections to the development.
- The fence is consistent with the government's guidelines on Sustainable Residential Development in Urban Areas (2009) and the Urban Design Manual (2009) which emphasise the importance of creating a sense of security in residential areas, the contribution that good design can make to this, including by delineating between private and public spaces. It is stated that the fence will help ensure the security of the appellant's property, defines the boundary of the land and establishes a distinction between the public and private space.
- The development is consistent with the policies of the County Development Plan (policies in respect of safe, well designed communities, land use zoning, development management guidelines for urban design and boundary treatments, road safety) and relevant policy of the written statement and development objectives for Duleek.
- The applicant will provide access to his lands by Irish Water as may be required and would be willing to accept a condition to this effect. Irish Water have various powers under the Water Services Act 2007 and the Planning and Development Act 2000 as amended for inspection, installation and repair of pipes etc.

6.1.2. Notwithstanding the above, the applicant provides an alternative design and landscaping for the fence, with the removal of some of the timber panels replacement with black painted steel railings and hedgerow behind (see Appendix 4).

6.2. **Planning Authority Response**

6.2.1. The planning authority make the following additional comments in response to the appeal:

- The proposed development cannot be considered on the grounds of security as this is not a planning matter.
- The development would create an undesirable precedent in the area, visual harm the amenity of the area and depreciate the value of properties in the vicinity of the site.

6.3. **Observations**

6.3.1. There is one observation on file from the owner of the property to the north of the appeal site. It raises matters set out in observations to the planning authority (summarised above) and the following additional concerns:

- A longstanding hedgerow previously ran across the front of the appellant's property from the peer of his gate to the corner of the site, away from the front of the observer's property (see photographs).
- The development has impacted on the sale of the observer's property.
- The proposed planting along the roadside and in front of the observer's property could grow quite aggressively (laurel) and will impact on view from the observer's property.
- The drawings of the proposed fence are misleading as it runs across the front of the observer's property.
- The fence prevents access to the observer's wall for maintenance.

7.0 Assessment

7.1. Having regard to the information on file and my inspection of the appeal site, I consider the key matters for this appeal relate to:

- Urban design - Impact on character of the area.
- Impact on residential amenity – Property to the north.

7.2. I do not consider that the development will give rise to a traffic hazard, given the narrow nature of the lane, slow speeds observed and small volume of traffic on the road.

7.3. Reference is also made to ownership of the appeal site, access to it by Irish Water and access to the observer's boundary wall for maintenance purposes. The applicant has demonstrated sufficient ownership of the appeal site to make the planning application. Traditionally roadside ownership extends to the mid-point of the adjoining road. However, the right to develop this land, and the other matters referred to above, are legal matters which lie outside the scope of this appeal.

7.4. Urban Design

7.4.1. The appeal site lies on a minor road within the town of Duleek. Properties are typically single storey on large sites. There is no footpath along the public road and the road carriageway is marked by the curtilage of the adjoining properties, with a typical mix of boundary hedgerows and low stone walls. It is evident from photographs on file, historic mapping and aerial photography (see attachments), that the previous boundary hedgerow along the appeal site was set back from the public road.

7.4.2. Policy UD POL 1 of the Meath County Development Plan for Duleek specifically seeks to promote the development of a high quality, sympathetically designed, well landscaped and appropriate scaled environment that is in keeping with the existing character, amenity, environment, heritage and landscape of the village.

7.4.3. The subject fence is a similar height to other boundary hedgerows along the lane, however unlike the previous boundary hedgerow, it extends into the laneway. The fence also introduces new materials to the laneway and as a high and solid structure, in the particular location, encroaches onto and detracts from views of the

traditional property to the north of the site from the laneway. This property has been associated with the laneway for over 100 years and contributes to its historic character, for example, perched on a slightly elevated site and traditionally viewed when approaching from the south.

- 7.4.4. Whilst I accept that the applicant may be concerned to provide adequate security for his property, I do not consider that there is any argument put forward, or reason, for the fence to be in its current position or specific form. Furthermore, I do not consider that the fence is sympathetically designed or refers, in any substantial way, to the existing character of the laneway. I do not consider, therefore, that development is consistent with policies of the County Development Plan for Duleek.

7.5. **Impact on Residential Amenity**

- 7.5.1. The subject fence has been erected immediately south of the adjoining residential property, hard up against the original boundary, obscuring views of the original boundary wall and detracting from its setting. I would accept therefore that the development detracts from its residential amenity.

7.6. **Alternative Design**

- 7.6.1. The alternative design provided by the applicant reduces the extent of timber panelling in the fence and replaces it with steel fencing and planting behind. The proposals are an improvement on the plans submitted with the planning application. However, they do not address the structural impact of the development on the character of the laneway, views of the property to the north of it or the amenity impacts of the development on the adjoining property, which arise by virtue of the location of the fence. In the absence of the relocation of the front boundary fence, therefore, I consider that the proposed development should be refused.

8.0 **Appropriate Assessment**

- 8.1. Having regard to location of the proposed development, within an established urban area, and the very modest nature of the development, 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.

9.0 Recommendation

9.1. I recommend that permission for the development be refused.

10.0 Reasons and Considerations

1. Having regard to the prominent location of the development on this corner site, on approach from the south, and the established pattern of development in the surrounding area, it is considered that the proposed development by reason of its scale, form and design would be visually obtrusive on the streetscape and out of character with development in the vicinity. The proposed development would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the development on lands immediately adjoining and directly in front of the residential property to the north of the site, it is considered that the proposed development would seriously injure the amenities of this residential property. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann
Planning Inspector
12th February 2020