



An  
Bord  
Pleanála

## Inspector's Report ABP-305714-19

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### Development

Retention permission for infilling of existing stepped boundary wall with a privacy screen up to the maximum height of wall of 2.3 m along the north west, north east and south east site boundary.

### Location

7A Leopardstown Park, Stillorgan, Co. Dublin.

### Planning Authority

Dun Laoghaire-Rathdown County Council

### Planning Authority Reg. Ref.

D19B/0372

### Applicant

Aodan Marnell & Clare McAndrew

### Type of Application

Retention

### Planning Authority Decision

Refuse Permission

### Type of Appeal

First Party

### Appellant

Aodan Marnell & Clare McAndrew

### Observer

John Costigan

**Date of Site Inspection**

11<sup>th</sup> December 2019

**Inspector**

Paul O'Brien

## 1.0 Site Location and Description

- 1.1. Number 7A comprises a part two-storey/ part single-storey detached house located on a corner site of 0.03 hectares at the junction of Leopardstown Avenue and Leopardstown Park within an established residential area. Leopardstown Avenue is accessed to the east of the N31 and is located to the north east of Sandyford Reservoir and Business Park.
- 1.2. No. 7A is a recently constructed, contemporary designed infill house with a flat roof, restrained window provision, extensive use of brick and a generally simple form of design. The elevation facing Leopardstown Avenue is set back behind the front elevation of no. 7 on the side garden of which 7A was constructed. The area is characterised by semi-detached houses with hipped roofs on generous site areas. Infill development is evident in the area with different design types used.
- 1.3. The site boundary consists of a circa 2m high rendered wall along the Leopardstown Park/ south eastern side and a low wall to the front of the site. This side wall extends slightly forward of the front elevation of 7A and 7. The boundary extends forward by means of 5 no. metal sheet panels (stated to be aluminium) over a wall to a point where the new/ replacement boundary meets the original low boundary wall. These panels are a dark grey colour and are rivetted to a frame that is not visible from the public street. A gate utilising similar dark grey coloured metal panel provides pedestrian access to this house from Leopardstown Park and a larger driveway gate, again using similar material is located to the south east of the site.

## 2.0 Proposed Development

The development consists of the retention of infilling of the stepped boundary wall with a privacy screen up to the permitted height of the boundary wall of 2.3 m on part of the eastern side boundary where it curves on Leopardstown Park. The panels extend back towards no.7A to enclose a small area of amenity space to the front of this house. The length of panel facing the public footpath is approximately 7.6 m.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to refuse permission for a single reason as follows:

*Having regard to the length, height and design of the fence to be retained in the context of the site and its immediate surroundings, it is considered that the development to be retained is out of character with the area, visually obtrusive at this prominent location, is seriously injurious to the amenities of the area and property in the vicinity and would set an undesirable precedent for the area. The proposed development is, therefore, contrary to the zoning objective of the site 'to protect and/or improve residential amenity' and with Section 8.2.8.4 (iii) 'Boundaries' of the Dún Laoghaire Rathdown County Development Plan 2016-2022. The proposed development is, therefore, contrary to the proper planning and sustainable development of the area.*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planning report reflects the decision to refuse retention permission for the provision of a privacy screen on an existing boundary wall, forward of the front building line of the house.

#### 3.2.2. Other Technical Reports

**Drainage Planning – Municipal Services Department:** No objection to the submitted development.

#### 3.2.3. Objections/ Observations

Letters of objection were received from the occupants of no. 7 Leopardstown Park and 4 Craigmole Gardens, Blackrock. Issues raised include:

- The enclosure of the front garden is out of character with the pattern of development in the area which is of open front gardens with low wall boundaries.
- The site is in a prominent location and will detract from the visual amenities of the area.

- The design of boundary provides for a blank/ inactive frontage thereby reducing passive surveillance.
- The boundary treatment will set a poor precedent for similar development in the area.
- The development is contrary to Section 8.2.8.4 (iii) of the Dun Laoghaire-Rathdown County Development Plan which sets out how front boundaries should be provided (detailed in Section 5.1.2 of this report).

An addendum observation was submitted by the occupant of no. 7 Leopardstown Park with regard to the address of the subject property.

## 4.0 Planning History

- 4.1.1. **P.A. ref. D16A/0800/ ABP ref. PL06D.247926**, refers to a May 2017 decision to grant permission for the demolition of a car port/ garden sheds, side boundary wall and part of a single-storey extension in addition to the removal of hedgerow and trees to the side of no. 7 Leopardstown Avenue, and for the construction of a part two-storey, single-storey detached house with accesses (vehicular and pedestrian) onto Leopardstown Park. The Planning Authority recommended a refusal of permission.
- 4.1.2. I note that an enforcement file is open with regards to non-compliance with conditions in relation to the provision of the subject boundary treatment.

## 5.0 Policy and Context

### 5.1. Development Plan

- 5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned A ‘To protect and/ or improve residential amenity’. Residential development is listed within the ‘Permitted in Principle’ category of this zoning objective.
- 5.1.2. The following are relevant/ noted:

Section 8.2.3.4 ‘Additional Accommodation in Existing Built-up Areas’

*(v) Corner/Side Garden Sites*

*Corner site development refers to sub-division of an existing house curtilage and/or an appropriately zoned brownfield site to provide an additional dwelling in existing built up areas. In these cases the Planning Authority will have regard to the following parameters (Refer also to Section 8.2.3.4(vii)):*

I will not state them all, only those relevant:

- *Size, design, layout, relationship with existing dwelling and immediately adjacent properties.*
- *Impact on the amenities of neighbouring residents.*
- *Building lines followed where appropriate.*
- *Side/gable and rear access/maintenance space.*
- *Private open space for existing and proposed dwellings.*
- *Level of visual harmony, including external finishes and colours.*
- *Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas in order to avoid a pastiche development.*
- *Side gable walls as side boundaries facing corners in estate roads are not considered acceptable.*

*Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained where possible.*

*(vii) Infill*

*New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.*

Section 8.2.8.4 (iii) 'Boundaries':

*'In all cases, suitable boundary treatments both around the side and between proposed dwellings shall be provided. In this regard, boundary treatments located to the rear of dwellings should be capable of providing adequate privacy between properties.*

*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'.*

## **5.2. Natural Heritage Designations**

5.2.1. None.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The applicant has engaged the services of Thornton O'Connor – Town Planning to prepare an appeal against the decision of Dun Laoghaire-Rathdown County Council to refuse permission for the retention of the infilling of the existing stepped boundary with a privacy screen. The following comments are made:

- The additional screening was provided for privacy and security reasons and the applicant did not consider a need for planning permission for its installation.
- Similar materials are used in the entrance doors, gates and windows and is therefore in keeping with the rest of the house. It is an example of exemplar architecture and design solutions must reflect the unique features of the site.
- There have been issues regarding threats to the applicants' family and the lack of screening allows for direct views into the bedroom addressing Leopardstown Avenue.

- Due to the nature of the house on site, the front elevation faces onto Leopardstown Park and the infill panelling is therefore to the side/ rear boundaries and not the front.
- Removal of the infill panelling may require blinds to be fitted and in use all day to prevent direct views into the ground floor bedroom. This would not be acceptable and would reduce daylight infiltrating into this room.
- The height of the panels at 2.3 m is only 300 mm more than the permitted 2 m and which is imperceptible.
- The use of aluminium panels is appropriate in this location and is a high-quality solution to the issue of protection of privacy.
- The panelling provides for a more interesting boundary treatment than the original. The previous planting obscured views, created a blind spot, blocked out easterly light and was used as a dumping spot.
- A number of similar designed boundaries/ treatments within Dublin are provided.

## 6.2. Planning Authority Response

- No new matters have been raised that 'would justify a change of attitude to the proposed development'.

## 6.3. Observations

An observation was received from the occupant of no. 7 Leopardstown Avenue, the unit to the north west of the subject site and on the side garden of which no. 7A was constructed. Issues raised include:

- The boundary was raised through the use of metal hoarding on top of the existing boundary wall.
- The height and type of boundary treatment is out of character with the area.
- If permitted, this boundary treatment would set an unwelcome precedent for similar development in the future.
- The applicant is attempting to circumvent the proper planning of the area.



## 7.0 Assessment

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Design and Impact on the Character of the Area
- Impact on Residential Amenity
- Appropriate Assessment Screening

### 7.2. Design and Impact on the Character of the Area

7.2.1. The applicants have provided additional screening along the boundary of this site in order to address issues that appear to have been unforeseen when they applied for permission for no. 7A Leopardstown Avenue. They have attempted to provide this screening using material that will integrate with the constructed house; I note the use of similar material/ colours on the window frames, driveway gates and pedestrian entrance to the side onto Leopardstown Park. I can understand the rationale for this, but it is not acceptable.

7.2.2. Infill development works where it can be demonstrated that it complies with relevant standards, in this case the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 and respects the character of the established area. The permitted house although very different from the established pattern of development, does not negatively impact on the character of the area. The design is restrained and integrates well. The permitted development under P.A. ref. D16A/0800/ ABP ref. PL06D.247926 as indicated on Drawing LEP/PL/104 received by the Planning Authority on 28<sup>th</sup> October 2016, clearly indicates that the proposed boundary wall would extend forward of the front building line by approximately 2 m but would then drop in height to match/integrate with the existing low boundary wall. I consider this originally submitted and permitted design to be acceptable and appropriate to the area. I noted on the site visit that front/ side boundary walls forward of the front building line, were low walls and this provides a sense of openness in the area. A number of properties have hedgerows to the front that increase the height of boundary, but this is a far softer approach than the provision of a solid wall/ metal panelling. The extension of a boundary of over 2 m forward of the established building line and almost up to the front boundary is excessive and is not visually

acceptable. It was not intended that the front garden of this house would be enclosed by 2.3 m high panels as this open space area enables the site to integrate with the existing form of housing in the area. The retention of this boundary treatment will have a negative impact on the established character of the area and does not demonstrate compliance with Section 8.2.3.4 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022.

- 7.2.3. In addition to the excessive height, I have concern regarding the type of material to be used. This has a somewhat temporary feel to it, and I would have concern about the medium to long term effects of weathering on it. The panels are not fully flush with the lower wall and each other. It is uncertain what impact expansion/ contraction will have on the panels and their connection to the internal frame. On approaching the site, the panelling was visually dominant, and this should not arise as an issue where infill housing/ its boundary treatment, is successful. It is considered the removal of this panelling would restore the character of the area on this prominent corner site.

### **7.3. Impact on Residential Amenity**

- 7.3.1. A number of reasons for the provision of this screening were offered by the applicants including security, screening of the bedroom and consideration that does not require permission. As an application was lodged, the Planning Authority were obliged to assess it. I appreciate that a ground floor bedroom to the front of a property is open to overlooking/ loss of privacy, however that is a fault of the original house design and should have been considered as an issue. The means to resolve such a problem should not negatively impact on the character and residential amenity of the area. Internal screening and/ or internal reconfiguration of rooms may be required to address such concerns.
- 7.3.2. Reference to loss of daylight due to the need for internal blinds or other forms of screening were made. I note that the window to this room faces north east, whereby very little sunlight will enter this room and the provision of the 2.3m high panels effectively removes a significant amount of daylight.
- 7.3.3. The positioning of the panels reduces daylight to the front of no. 7, thereby having a negative impact on the residential amenity of the occupants of this house. Whilst the

loss of daylight is not significant, the removal of the panels would increase daylight penetration in addition to restoring the sense of openness to the front of no. 7.

#### **7.4. Appropriate Assessment Screening**

- 7.4.1. Having regard to the nature and limited scale of the proposed development and the location of the site in an area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

- 8.1. I recommend that permission be refused for the following reason and considerations as set out below.

### **9.0 Reasons and Considerations**

1. The retention of the infilling of the existing stepped boundary wall with aluminium sheeted, privacy screen of a height of circa 2.3 m, by reason of excessive height relative to existing boundaries, material finish, and design, would be out of character with the established pattern of development in the vicinity and would constitute a visually discordant feature that would be detrimental to the distinctive character of this area consisting of front gardens with low wall boundaries. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The retention of the infilling of the existing stepped boundary wall with aluminium sheeted, privacy screen of a height of circa 2.3 m, would continue to reduce the available daylight to the adjoining no. 7 Leopardstown Avenue, in addition to being overbearing on the front of this property. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Paul O'Brien  
Planning Inspector

20<sup>th</sup> December 2019