



An
Bord
Pleanála

Inspector's Report ABP-308895-20

Development	Installation of fence and gates on garden front boundary & all associated site development works.
Location	Wildings, Slate Cabin Lane, Sandyford, Dublin 18.
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D20A/0697
Applicant(s)	John and Helena Ryan
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v. Decision
Appellant(s)	John and Helena Ryan
Observer(s)	None.
Date of Site Inspection	10 th February, 2021
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in a rural area to the southwest of Sandyford, Co. Dublin, approximately 1km south of the M50 Motorway and 1.5km northwest of the village of Stepside, where it occupies a position along the eastern side of a narrow private laneway that extends southwards from its junction with Slate Cabin Lane to provide access to a series of one-off dwelling houses before terminating in a small cul-de-sac. The immediate site surrounds are generally rural in character and representative of the gradual transition between Sandyford Village and the foothills of the Dublin Mountains, although there are multiple concentrations of one-off residential development in the wider area likely attributable to the proximity of Dublin City and key transport routes such as the M50 and the R117 Regional Road. Slate Cabin Lane is characterised by a narrow and poorly aligned carriageway with multiple bends and speed ramps / tables along its length as it rises towards Woodside Road to the southwest. It has no pedestrian footpaths and only intermittent street lighting.
- 1.2. The site itself has a stated site area of 0.361 hectares, is irregularly shaped, and comprises the property known as 'Wildings' which encompasses a single storey bungalow set within a substantial garden area with access obtained via a splayed entrance onto the adjacent laneway to the immediate west. The site frontage extends along the roadside for a distance of approximately 60m and is defined by a series of mature / semi-mature trees and hedging set behind a dilapidated post and wire fence line. Although the eastern side of the laneway is predominantly defined by mature trees & hedgerow, the western side of the carriageway is dominated by a combination of modern stonework / masonry walls and rendered blockwork walling.

2.0 Proposed Development

- 2.1. The proposed development consists of the replacement of the existing concrete post & wire fence and field gate along the front garden / roadside boundary with 1.8m high steel post fencing and matching gates.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 19th November, 2020 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following single reason:

- The proposed development by reason of its design, scale and location, would appear visually obtrusive and discordant when viewed from the public realm and would be seriously injurious to the visual and residential amenities of property in the area. The proposed development would, therefore, be contrary to the site's zoning objective, which is 'to protect and improve rural amenity and to provide for the development of agriculture', under 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:*

Details the site context, planning history, and the applicable policy considerations, before stating that the proposed fencing will be visually oppressive and discordant due to its appearance, height and overall length (spanning in excess of 60m with no visual break) (it is subsequently suggested that if the fencing were to be set back behind the tree line it would be less visually obtrusive while still providing for security). Further concerns are raised as to whether the subject lands are within the applicants' control and it is suggested that clarification is required as regards same. The report concludes by stating that the fence will be visually inappropriate, overly dominant, and visually 'harsh' given its location along a residential laneway on rurally zoned lands, before recommending a refusal of permission.

3.2.2. *Other Technical Reports:*

Drainage Planning, Municipal Services Dept.: No objection.

Transportation Planning: No objection, subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

3.4.1. A single submission was received from an interested third party and the principle grounds of objection / areas of concern raised therein can be summarised as follows:

- The potential for damage or interference with (including the future maintenance of) underground services due to the construction of the proposed fencing.
- Inconsistencies / inaccuracies in the identification of site / property boundaries.
- Inaccurate measurement of the roadway / carriageway width.
- The need to clarify the positioning of the proposed fencing relative to the existing fence line.

4.0 Planning History

4.1. On Site:

None.

4.2. On Adjacent Sites:

4.2.1. *(to the immediate southeast):*

PA Ref. No. D17B/0354. Was granted on 11th January, 2018 permitting Mr. & Mrs. D. Lenehan permission for a first floor extension and all ancillary works to the existing dwelling at Jacaranda, Slate Cabin Lane, Sandyford, Co. Dublin.

4.2.2. *(to the immediate northwest):*

PA Ref. No. D18A/0643 / ABP Ref. No. ABP-302590-18. Was refused on appeal on 15th March, 2019 refusing Ciaran and Roisin Greenan permission for the construction of a new adapted three bedroom dormer bungalow, garage and sensory garden with new wastewater treatment system, new boundary fence and new entrance for existing house to adjoining private lane at Rock Lodge, Slate Cabin Lane, Sandyford, Dublin.

- Having regard to the location of the site within an area under strong urban influence as identified in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005 wherein it is policy to distinguish between urban-generated and rural generated housing need, and the location of the site within an area where housing is restricted to persons demonstrating a genuine requirement for housing in accordance with policy RES16 and land use objective ‘B’ “To protect and improve rural amenity and to provide for the development of agriculture” of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, and to National Policy Objective 19 of the National Planning Framework, adopted by the Government, in relation to rural areas under urban influence, such as in the current case, which states that it is policy to “facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area...having regard to the viability of smaller towns and rural settlements”, it is considered that the applicants have not demonstrated that they come within the scope of the housing need criteria as set out in the Guidelines and that they have not demonstrated an economic or social need to live in this rural area in accordance with national policy and the Dún Laoghaire-Rathdown County Development Plan 2016-2022. Furthermore, the Board is not satisfied that the applicant’s housing needs could not be satisfactorily met in an established smaller town or village/settlement centre. The proposed development, in the absence of any definable or demonstrable based need for a house in this rural area, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, materially contravene the Ministerial Guidelines and would be contrary to national policy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.3. On Sites in the Immediate Vicinity:

- 4.3.1. PA Ref. No. D20A/0620. Was granted on 3rd December, 2020 permitting Ciaran & Roisin Greenan permission for a development consisting of (i) construction of a new

adapted, 3 bedroom, dormer bungalow with garage and sensory garden (ii) provision of new wastewater treatment system (iii) new boundary fence and new entrance for existing house to adjoining lane. The development also includes landscaping, SuDS drainage and all ancillary works necessary to facilitate the development. All at Rock Lodge, Slate Cabin Lane, Sandyford, Dublin 18.

5.0 Policy and Context

5.1. Dún Laoghaire Rathdown County Development Plan, 2016-2022:

Land Use Zoning:

The proposed development site is located in an area zoned as 'B' with the stated land use zoning objective '*To protect and improve rural amenity and to provide for the development of agriculture*'.

Other Relevant Sections / Policies:

Chapter 8: Principles of Development

Section 8.2: Development Management:

Section 8.2.3.6: Rural Housing:

(ii) Design:

There will generally be an emphasis on retaining existing roadside and other boundaries, and any other attractive natural/man-made features that are characteristic of the site or surroundings. A native tree planting scheme will generally be required in order to enhance rural amenity. Access roads and driveways should respect site contours. Recessed gateways should be constructed in local materials and in a style indigenous to the area.

(viii) Vehicular Entrances:

Existing/proposed vehicular access points shall be carefully examined, including consideration of landscape and visual amenity aspects, as there may be circumstances where it is desirable to seek alternative positions to avoid removal of substantial lengths of good quality characteristic existing boundaries. Front boundary treatments shall retain, or plant, indigenous hedges, earth banks, or provide dry stone walls and similar - depending on the typologies common to the area.

Appendix 11: Rural Design Guide: (xi) Gates, Driveways and Site Boundaries:

The use of existing site entrances will be encouraged by the Planning Authority, however it is recognised that improvements are often required in order to provide safe access / egress. Gates and driveways should not in themselves be visually prominent features and should be located sensitively within the landscape and should avoid cutting across contours. Use of existing boundary walls / hedges and local materials will be encouraged in all instances. Any new / supplementary planting should be native to the area. The use of brick / concrete walls or ranch style or more ornate fencing and gates are not appropriate in a rural setting.

5.2. Natural Heritage Designations

5.2.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Fitzsimon's Wood Proposed Natural Heritage Area (Site Code: 001753), approximately 400m north of the site.

5.3. EIA Screening

5.3.1. Having regard to the minor nature and scale of the development proposed, the site location outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from the nearest sensitive location, 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

- In light of a recent break-in and theft from a shed within the applicants' property, and notwithstanding the installation of security cameras, it is felt that the erection of a proper boundary fence along the roadside would serve as a useful deterrent to unauthorised access.

- It is considered that the steel post fencing proposed integrates well with the rural setting and is similar in terms of its design, height and size as that erected at 'Mountain Lodge' elsewhere along Slate Cabin Lane (please refer to PA Ref. No. D98B/1008).
- In order to negate the need to remove or cut down the mature trees or to disturb underground services / pipework, it is proposed to erect the fencing with posts at 2.6m intervals along the site boundary (or as close as is practicable).
- There is a wide variety of different boundary treatments along Slate Cabin Lane (including masonry and / or rendered walls, tree planting, and timber fencing) and it is considered that steel & post fencing such as that proposed, which can blend seamlessly with natural hedgerows over time, is frequently used in rural areas.
- The proposed fencing is easy to excavate, plant around, and will be painted black. It will also offer security and will keep animals such as dogs and deer out while having a negligible visual impact. Furthermore, the existing tree-lined boundary will serve as 'back-planting' and will aid in the assimilation of the fencing.
- The intention is that the proposed fencing will blend seamlessly along the boundary to allow views through to the trees and garden beyond. It is also envisaged that the boundary will be allowed to become overgrown with indigenous / native planting over time (similar to elsewhere along Slate Cabin Lane and beyond). No trees or planting are to be removed to accommodate the proposed development, if possible.
- The character of a rural area is often created by a mix of boundary treatment and the preference in this instance is for a 'light touch' approach, both in terms of construction and physical impact.
- The applicants are amenable to a reduction in the height of the proposed fencing or the introduction of a stepped arrangement as a condition of any grant of permission.

- The design, scale & height of the proposed fencing is in keeping with other boundaries along Slate Cabin Lane and beyond. It will offer security against intruders and wild deer etc. and is both long-life and relatively maintenance free. Other fence types, such as concrete posts with timber sections, would be less successful and out of character with the area. Traditional steel fencing with wide gaps and horizontal bars would offer less security against trespass.
- By way of precedent, the Board is referred to the roadside boundary fencing erected off Enniskerry Road at Newtown Little, Stepside, as part of the Belarmine apartment complex approved under PA Ref. No. D04A/0952.
- The fencing type proposed is common in urban and rural settings throughout Ireland and offers a practical and robust boundary treatment.
- With respect to the applicable land use zoning objective which seeks '*to protect and improve rural amenity and to provide for the development of agriculture*', given the domestic use / setting of the site, it will never provide for the '*development of agriculture*'.
- In response to the concerns of third parties, the proposal is to erect a boundary fence with no disturbance of the utilities / pipework etc. serving neighbouring properties. This may mean stepping the boundary fence further into the applicants' property in places. Once the exact location of pipework etc. has been ascertained following site excavations, the fence will be set back a safe distance where required as advised by a structural engineer.
- By way of reassurance to third parties, the applicant advises as follows:
 - The proposed fencing will follow the existing fence line or will be inset into the site as required so as to avoid existing services etc.
 - The proposal will not encroach into or result in any narrowing of the existing shared roadway.
 - The development will not interfere with existing services / utilities serving residential properties.

6.2. Planning Authority Response

- States 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

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- Overall design / visual impact
- Impact on utilities / services & adjoining properties
- Appropriate assessment

These are assessed as follows:

7.2. Overall Design / Visual Impact:

7.2.1. At present, the front / roadside boundary of the application site is defined by a series of mature / semi-mature trees and hedging set behind a dilapidated (and somewhat intermittent) post and wire fence line. This existing fencing (in addition to a former field gate now used as a garden access) would appear to comprise the original pre-development / field boundary treatment and includes stretches of 'chicken wire' and strings of barbed wire running between fence posts. However, in light of security concerns arising from a recent theft on site and in order to guard against any further unauthorised access / trespass, it is proposed to replace the entirety of the existing roadside fence with 1.8m high steel post fencing which will extend for a distance of c. 61m with the individual fence sections set at 2.6m intervals. The proposal also includes for the erection of matching entry gates and it is notable that the main

entrance to the existing dwelling house is not secured by any form of gates at present.

- 7.2.2. The principle concern with respect to the proposed development is in relation to the overall suitability and visual impact of the new fencing given the rural context and in this regard I would suggest that it is appropriate to refer to Section 8.2.3.6: '*Rural Housing*' and, in particular, Appendix 11: '*Rural Design Guide*', of the County Development Plan wherein an emphasis is placed on the retention of existing roadside boundaries in order to maintain the rural character of areas whilst front boundary treatments should retain, or plant, indigenous hedges, earth banks, or provide dry stone walls or similar - depending on the typologies common to the area. Item (xi): '*Gates, Driveways and Site Boundaries*' of the rural design guide goes further and state that gates (and driveways) should not in themselves be visually prominent features with the use of existing boundary walls / hedges and local materials to be encouraged in all instances and any new / supplementary planting to be native to the area. More specifically, it is expressly stated that the use of brick / concrete walls '*or ranch style or more ornate fencing and gates*' are not appropriate in a rural setting.
- 7.2.3. Whilst I would acknowledge that the rural character and setting of the laneway from which the subject site is accessed has been regrettably degraded through the erection of inappropriate roadside walling along much of its western extent, the eastern side of the laneway continues to be predominantly defined by mature trees & hedgerow. Similarly, although there are other examples of inappropriate boundary treatments in the wider area, including alongside sections of Slate Cabin Lane, I am inclined to suggest that the broader rural character of the area remains intact and that the presence of unsuitable walling / fencing should not be used to set a precedent for further undesirable development types.
- 7.2.4. In specific reference to those instances of comparable fence types in the surrounding area identified in the grounds of appeal, in the first instance, it is unclear whether or not the fencing in place along that section of Slate Cabin Road at 'Mountain Lodge' is authorised and thus I do not propose to comment further on same. Secondly, the fencing erected as part of the Belarmine apartment complex at Enniskerry Road (R117) is situated within the built-up confines of Stepside village on lands zoned for development in both the Stepside Action Area Plan and the County Development

Plan and thus the urban context of that fencing is not directly comparable to the subject proposal.

- 7.2.5. Therefore, having regard to the foregoing, I am inclined to concur with the assessment of the Planning Authority that the proposed replacement fencing, by reason of its overall design / appearance, height, and extent along the entirety of the roadside boundary (and forward of the existing tree / hedge line), would represent an inappropriate and visually discordant form of development given the rural site context. The proposal would serve to further erode the visual amenity and prevailing rural character of the surrounding area and would be contrary to the design guidance set out in the Development Plan, with particular reference to Item (xi): '*Gates, Driveways and Site Boundaries*' of the 'Rural Design Guide' contained in Appendix 11 of that Plan.

7.3. Impact on Utilities / Services & Adjoining Properties:

- 7.3.1. With respect to the concerns raised by a third party as regards the accuracy of the submitted drawings and the potential for the proposed development to impinge on the carriageway of the access laneway or to interfere with existing underground services / utilities, the applicants have sought to reassure the neighbouring property owners by stating that the new boundary treatment will follow the existing fence line, unless the need arises during the construction / excavation works to set back the fencing into the site so as to avoid interfering with existing services etc. In this regard, it has been further submitted that the proposal will not encroach upon or result in any narrowing of the existing laneway nor will it impact on services / utilities serving neighbouring properties.

- 7.3.2. Notwithstanding that the foregoing would appear to address the concerns raised, I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and thus any grant of permission for the proposed development would not in itself confer any right over private property interests.

7.4. Appropriate Assessment:

- 7.4.1. Having regard to the minor nature and scale of the development under consideration, the site location outside of any protected site, the nature of the

receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority should be upheld in this instance and that permission be refused for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. Having regard to the rural site location and the provisions of the Dún Laoghaire Rathdown County Development Plan, 2016-2022, with particular reference to the provisions set out in Section 8.2.3.6: 'Rural Housing' and Appendix 11: 'Rural Design Guide' relating to boundaries in rural areas, which are deemed reasonable, it is considered that the proposed development, by reason of its overall design, height, extent and appearance, would be in conflict with the stated provisions of the Plan, would represent a visually discordant feature at the location proposed, would seriously injure the visual amenities of the immediate area, and would militate against the preservation of the rural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

12th February, 2021