



An  
Bord  
Pleanála

## Inspector's Report ABP-309515-21

<b>Development</b>	Steel framed timber fence above the top of the front garden side walls forward of the front building line.
<b>Location</b>	No. 15 Fortrose Park, Templeogue, Dublin 6W.
<b>Planning Authority</b>	South Dublin County Council.
<b>Planning Authority Reg. Ref.</b>	SD20B/0460.
<b>Applicant(s)</b>	Paul Dormer.
<b>Type of Application</b>	Retention Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellant</b>	Paul Dormer.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	4 <sup>th</sup> day of June, 2021.
<b>Inspector</b>	Patricia-Marie Young

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## 1.0 Site Location and Description

- 1.1. No. 15 Fortress Park, the appeal site, has a stated site area of 0.034ha. It is located on the south-eastern side of a residential cul-de-sac that at this point is comprised of a mixture of three semi-detached pairs and two detached dwellings that are located at the end of short residential road of two storey highly coherent in their built form, layout and appearance mainly 2-storey semi-detached properties but also including a small number of detached properties with the given name of 'Fortrose Park, in the Dublin city suburb of Templeogue, c6.3km as the bird would fly from the heart of Dublin City.
- 1.2. The site itself, at its nearest point, is setback c87m from Fortrose Park's T-junction with Temple Drive. Its front side northern boundary adjoins a small pocket of open space that consists of maintained grass and is densely planted with trees. The northern elevation and the remainder of the northern boundary bounds a gated access and car parking for a small group of businesses. On its southern side it bounds No. 14 Fortrose Park, which forms part of a semi-detached pair of two storey redbrick dwellings. The rear boundary bounds Templeogue Road (R137) and contains a pedestrian access that opens onto the pedestrian footpath.
- 1.3. Whilst the site backs onto Templeogue Road which contains a wide mixture of land uses including but not limited to commercial and recreational (Note: the Templeogue Tennis Club lies on the opposite side of the R137) the predominant land use and character of the site and when appreciated from its principal façade is mature residential.

## 2.0 Proposed Development

- 2.1. Retention permission is sought for a steel framed timber fence above the top of the front garden side walls forward of the front building line.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority decided to **refuse** retention permission of the following stated reasons:

- “1. *Having regard to the excessive height along the side boundary, the proposed fence for retention, due to its excessive height and location and extent would be visually obtrusive and overbearing and would seriously injure the amenities of property in the vicinity (both at street level and to the side of the property). Thus, the proposal would contravene the zoning objective which seeks to ‘To protect and/or improve Residential Amenity’ under the South Dublin County Council Development Plan 2016-2022.*
2. *The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the residential and visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.”*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planning Officer’s report is the basis of the Planning Authority’s decision, and it includes the following comments:

- The enforcement history of the site is set out.
- The site and its setting have no relevant and/or recent planning history.
- Reference is made to relevant local planning provisions.
- Reference is had to Section 28 Ministerial Guidelines.
- There are no 3<sup>rd</sup> Party submissions through to interdepartmental reports relating to the development sought.
- Having regard to the excessive height of the side boundaries to the front of the dwelling is considered that the proposed fence for retention would be visually obtrusive, overbearing, and injurious to the amenities of property in the vicinity and would set an undesirable precedent which together would contravene the site’s land use zoning objective of protecting and improving residential amenity.
- This report concludes with a recommendation to refuse retention permission.

#### **3.2.2. Other Technical Reports**

None.

### 3.2.3. **Prescribed Bodies**

None.

### 3.2.4. **Third Party Observations**

None.

## 4.0 **Planning History**

### 4.1. **Site and Setting**

4.1.1. None of relevance.

## 5.0 **Policy & Context**

### 5.1. **Local Planning Provisions**

5.1.1. The South Dublin County Development Plan, 2016 to 2022, is the applicable Development Plan under which the site and its setting is zoned '*RES*' which has the following stated zoning objective: "*to protect and/or improve residential amenity*".

5.1.2. Chapter 2 of the Development Plan deals with residential development and Chapter 11 deals with the matter of implementation.

### 5.2. **Other:**

5.2.1. The South Dublin County Council House Extension Guide, (2010), is relevant.

### 5.3. **Natural Heritage Designations**

5.3.1. The site does not form part of, nor does it adjoin or is it located in the vicinity of any European site. The nearest such site is Glenasmole Valley SAC (Site Code: 001209) and it is located at its nearest point c6.1km to the south as the bird would fly.

### 5.4. **EIA Screening**

5.4.1. Having regard to the nature the proposed development, the nature of the receiving environment, and proximity to 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**

6.1.1. The grounds of this 1<sup>st</sup> Party appeal can be summarised as follows:

- The subject dwelling is located at the end of a cul-de-sac in a relatively modern housing estate with no through pedestrian or traffic access.
- The works form part of modernising the visual appearance of this property and consist of the provision of new boundary fence and gates as well as added decorative fence on top of the existing side walls to match. The boundary works are stepped to reflect the slight rise in ground levels from the road.
- The side garden walls range from 0.9m in the south-west to 1.12m in the north-east in terms of their height and together with the addition of a decorative fence on top they are altogether 1.55m height. Just 0.35m above the exempted level.
- These boundaries improve privacy and reduces the impact of car headlights.
- The Planning Authority's Planning Officer's description of the boundary treatment as a palisade fence is not correct and is more reflective on boundaries in industrial settings.
- There are no dormers included in this application.
- The works blend in with the works that have been carried out to this dwelling.
- The surrounding dwellings are a collection of dull 1970s red brick properties.
- Boundary divisions in this area generally consist of soft landscaping.
- No objections have been raised by neighbours.
- It is not accepted that the boundary is overbearing in its setting.
- The works are unique to this dwelling and do not set a precedent.
- It is requested that the decision of the Planning Authority be overturned.

## 6.2. Planning Authority Response

6.2.1. None.

## 7.0 Assessment

### 7.1. Preliminary Comment:

- 7.1.1. I firstly note that this appeal before the Board relates to a development for which retention permission is sought.
- 7.1.2. In relation to retention, I note that the Development Management Guidelines for Planning Authorities, 2007, make it clear that, in dealing with applications for retention, they must be considered "*as with any other application*". This is in accordance with planning law and with proper planning practice, in that all applications for retention should be assessed on the same basis as would apply if the development in question were proposed. Therefore, no account can, or should, be taken by the Board of the fact that substantive development in relation to the rear extension at this subject property has already taken place.
- 7.1.3. I secondly note that the appellant in their appeal submission makes a number of comments that fall outside of the being substantive planning issues matters as well as a number of procedural comments in terms of the Planning Authority's handling of this case. In relation to these comments and the procedural concerns raised I note that the Board does not have an ombudsman role and as said the Board by way of this 1<sup>st</sup> Party appeal is tasked with assessing the development sought under this application on an entirely *de novo* basis. In this regard Section 37(1)(b) of the Planning & Development, 2000, as amended requires the Board in appeal cases like this to make a determination on the application as if it had been made to the Board in the first instance. As such my assessment below focuses on the substantive planning matters that determine whether or not retention permission should be granted.
- 7.1.4. In this case having inspected the site and its setting, had regard to all documentation on file together with all relevant planning provisions, I consider that the substantive planning concerns that are raised by and large correlate with the Planning Authority's given reasons for refusal. The matter of appropriate assessment also requires

examination. This I have done under a separate heading following on from my assessment below.

## **7.2. Reason No. 1**

- 7.2.1. The first reason for refusal given by the Planning Authority considers that the development for which retention permission is sought, i.e., retention of steel framed timber fences above the top of the front garden side walls forward of the front building line are excessive in their height. In addition, it considered that together with their location and extent they would be both visually obtrusive and overbearing. For this reason, it is considered that they would seriously injure the amenities of property in the vicinity. Both at street level and when viewed from the side of the property. As the zoning objective for the site seeks to protect and/or improve residential amenity under the Development Plan, it is considered to permit the development sought under this application, for the reasons given would be contrary to it.
- 7.2.2. In respect of this reason for refusal alongside the site being located in a site where the Development Plan's zoning objective seeks to protect and/or improve residential amenity (Note: 'RES'), the said plan also includes an objective that seeks: "*to ensure that new development in established areas does not impact negatively on the amenities of an area*" (Note: H17 Objective 5). It also includes an objective that seeks: "*to ensure that all developments are designed to provide street frontage and to maximise surveillance of streets and spaces*" (Note: H15 Objective 2) and an objective that seeks: "*to ensure that there is a clear definition between private, semi-private and public open space that serves residential development*" (Note: H15 Objective 1).
- 7.2.3. Further to the Development Plan provisions, Section 4 of the South Dublin County Council House Extension Guide, indicates that one of the elements of good design is respecting the appearance and character of the subject property but also the character of the area. It advocates the non-removal of front boundary walls that are characteristic of the area, and it indicates that appropriate regard should be had to changing ground levels, orientation of properties and other matters which may increase or decrease the overbearing or overshadowing impact.
- 7.2.4. In addition, Section 5 of this Guide deals with the construction or alterations of a gate, gateway, railing or wooden fence or a wall of brick or stone. In relation to such works it indicates that the height shall not exceed 1.2m to the front of a house or 2m if located



to the rear. It does not support the use of security type fencing in garden boundaries. It indicates that boundaries visible from any public road, path or public area shall be rendered or plastered and that every effort should be made to achieve a finish that is not only characteristic with the subject property but equally with other buildings in the area.

- 7.2.5. The boundary treatment for the side front boundaries for which retention is sought given that its stepped height forward of the front building line significantly exceeds the 1.2m height permitted with the northern side boundary wall extending over 12m in its length with its height varying between 1.76m and 2.5m towards the front building line. Whilst this height is significantly above that which is permitted arguably it is also not consistent with the materials that characterise the main side boundary walls of this property and indeed other properties within its urbanscape context of Fortrose Park. That is to say a residential scheme of highly homogenous in their formal design, built form appearance, building to space relationship, palette of materials through to structures demarcating their private, semi-private and public domain. With the subject property having changed the appearance of the side boundaries by the provision of render walls whereas the original scheme which is elsewhere largely unaltered consists of low brick finished walls which also extend into the front roadside boundary where the vehicular entrance is flanked by slightly taller brick piers.
- 7.2.6. While the front boundary treatment of the subject property is not subject of this application, and I can find no planning history relating to the same which would be expected given that it is a development that is not consistent with the character of its setting and the type of entrances normally permitted. Notwithstanding, I acknowledge that there is a synergy between steel and timber frame panels that have been positioned over the side walls with the much-amended roadside boundary. I do not consider that this or the fact that the window and door frames in the subject dwelling have similar timber colour hues are positive precedent in terms of deciding whether or not these works are respective of their highly uniform in character streetscape setting.
- 7.2.7. In addition, the additional height provided on the northern boundary walls blocks passive surveillance of the adjoining small pocket of open space as well as daylight reaching this public amenity provision. Thus, diminishing it as an amenity space for its users.

- 7.2.8. In terms of the western side boundary amendments the steel framed timber panels though not being as high in comparison to that of the northern boundary interventions vary from 1.9m to 2.1m in their height. These extend c9.3m from the front building line.
- 7.2.9. When viewed against the low boundaries (Note: c0.9m) and the unified palette of materials that are predominantly characterised by its brick finish that formed part of Fortrose Park's design scheme. With these treatments surviving largely intact and with the highly coherent in built form and appearance semi-private and public domain boundaries being one of the highly intact features of this formally designed and coherent residential scheme. I therefore consider that the height and the materials are out of character in their context and are not a harmonious or a respectful design solution that reaches a balanced which the significant changes that have occurred to the appearance of 15 Fortrose Park over the years and its part of a visual setting that whether you appreciate it or not has an identity that is derived from Fortrose Park's original design concept and how it was implemented to completion prior to occupation.
- 7.2.10. I also consider that the design treatment is similar to that of a security type addition as opposed to one that purely seeks to harmonise with what the applicant describes as the modernisation that has occurred to their property in a context which they contend is dull.
- 7.2.11. This adds in my view to the visual incongruity of this insertion in what is a modest cul-de-sac of residential dwellings that as said are highly homogenous in their appearance as appreciated from the public domain. With this type of insertion not comparable to the provision of soft landscaping visual buffers as visual buffers together with other landscaping in the semi-private domain of dwelling units within Fortrose Park have together with the sylvan character of its tree lined street and the density of trees in its small pocket of open space that bounds the site further add to the sylvan character of what is otherwise mainly a residentially suburbanised setting.
- 7.2.12. I would therefore largely agree with the Planning Authority's first reason for refusal based on the development being out of character with the dwelling and adjacent residential properties and that the development would be visually obtrusive and injurious to the visual amenities of the dwelling and adjoining residential properties in a manner that would conflict with the site's 'RES' development zoning objective.

### 7.3. Reason No. 2

- 7.3.1. The second reason for refusal essentially raises concern that, if permitted, the development sought under this application would give rise to an undesirable precedent. Which would in themselves and cumulatively be harmful to the residential and visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.
- 7.3.2. While I would note that each planning application is assessed on its own merits, having regard to the relevant planning considerations and site context. I would also share the Planning Authority's concern that the development could result in a precedent and if that were to arise, the situation would be exacerbated. I recommend that the Planning Authority refuse permission for this reason outlined.

### 7.4. In Conclusion

- 7.4.1. I broadly concur with the Planning Authority and their reasons for refusal of this retention development.

## 8.0 Appropriate Assessment

- 8.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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 retention planning permission for the development should be **refused** for the reasons and considerations, as set out below.

## 10.0 Reasons and Considerations

1. Having regard to the nature and scale of the development proposed to be retained, to the pattern of development in the vicinity and to the provisions of the South Dublin County Development Plan, 2016 to 2022, and the location of the site on land for which the 'RES' zoning objective seeks is applicable with this zoning

objective seeking to protect and/or improve residential amenity and the said Development Plan's objectives of ensuring that developments in established areas does not impact negatively on the amenities of the area (H17 Objective 5) and to ensure that all developments seek to maximise surveillance of streets and spaces (Note: H15 Objective 2), it is considered that the development proposed to be retained, by itself or by the precedent it would create, would be contrary to the Development Plan provisions, would be out of character with the host dwelling and the neighbouring residential properties as well as would also be visually obtrusive as well injurious to the visual amenities of the host dwelling and the neighbouring residential properties. The development proposed to be retained, would therefore be, contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young.  
Planning Inspector

8<sup>th</sup> day of June, 2021.