



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311949-21

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<b>Development</b>	Retention of boundary wall.
<b>Location</b>	No. 48, Silchester Park, Glenageary, Co. Dublin.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D21B/0452.
<b>Applicant(s)</b>	David Bloomer.
<b>Type of Application</b>	Retention Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Niall and Noeline Mulqueen.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	14 <sup>th</sup> day of January, 2022.
<b>Inspector</b>	Patricia-Marie Young.

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## **1.0 Site Location and Description**

1.1. No. 48 Silchester Park, has a stated site area of 516m<sup>2</sup> and it is located on the western side of Silchester Park c172m by road to the south east of Silchester Parks junction with Glenagery Road Lower (R118) in the Dublin city suburb of Glenagery. The site is comprised of a 2-storey semi-detached dwelling that date to circa the 1950s that also contains a later attached side garden, 2-storey side extension and a contemporary single storey rear extension. It forms part of a group of similar semi-detached pairs that are setback from the roadside boundary by a generous front garden and driveway area. To the rear there is generous in width and depth rear garden area. A set of photographs of the site and its immediate setting are attached.

## **2.0 Proposed Development**

2.1. Retention permission is sought for boundary treatments to common boundary between No. 48 and No. 49 Silchester Park. The works consist of a raised timber fence and a new section of block wall to the rear both with an approximate height of 2350mm.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. On the 19<sup>th</sup> day of October, 2021, the Planning Authority decided to grant retention permission subject to one standard condition. This condition essentially requires the development to be retained in its entirety in accordance with the plans, particulars and specifications lodged with the Planning Authority.

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

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

The Planning Officer's report is the basis of the Planning Authority's decision. The Planning Officer considered that having regard to the orientation of the site, the large size of the rear gardens of the subject site and those adjoining, the relative height of the rear extensions of No.s 48 and 49 that the retention of this development would not

give rise to any adverse residential or visual amenity impacts. It is recommended therefore that retention permission be granted.

### 3.3. **Other Technical Reports**

3.3.1. **Municipal Services Department:** No objection.

### 3.4. **Prescribed Bodies**

3.4.1. None.

### 3.5. **Third Party Observations**

3.5.1. Outside of a Third-Party Observation submitted by the appellants during the course of the Planning Authority's determination of this application no other submissions were received. I consider that the substantive concerns raised by the appellants in their submission to the Planning Authority are the same as those raised in their appeal submission.

## 4.0 **Planning History**

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

4.1.1. There is no recent and/or relevant previous planning application or appeal at this site or within its setting.

## 5.0 **Policy & Context**

### 5.1. **Development Plan**

5.1.1. The site is Zoned 'A': "*to protect and/or improve residential amenity*" in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

5.1.2. Section 8.2 of the Development Plan sets out that appropriate boundary treatments should be provided around sites and between existing as well as proposed dwellings. It also sets out that existing boundary treatments should be retained where possible; that boundary walls may be required to reflect the scale, height, materials and finishes

of existing walls and buildings; and that impact features like boundary walls shall normally be finished to harmonise in colour texture, height, and size to its setting.

## **5.2. Natural Heritage Designations**

5.2.1. The site is not located within the setting of a designated Natura 2000 site. There are no Natura sites within the immediate or wider setting.

## **5.3. EIA Screening**

5.3.1. Having regard to the nature of the development comprising a boundary amendments together with its associated works, the site's location in a built-up area zoned for residential development where public water mains and sewerage are available the need for environmental impact assessment can 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 appeal can be summarised as follows:

- The raising of the subject wall with a mixed treatment of hollow blocks at the rear garden and wood panelling fence closer to the house above the existing. And from a height of 1.2m to a height that varies between 2.1 to 2.46m is significant. This drastic change has seriously injured their residential and visual amenities by its visual overbearing and incongruous appearance.
- The houses at this location have an orientation of facing east to the front and west to the rear. They are also located on a downward slope.
- The neighbouring house of No. 48 has a different higher rear ground level to the appellants property.
- The rear garden is an important amenity for the appellants in the enjoyment of their home.

- This development is contrary to the site and its settings zoning objective A which seeks to protect and improve residential amenity. Without any condition to modify the height of the subject boundary wall this development materially contravenes this zoning objective.
- Reference is made to Class 5 exempted development. The rationale for the maximum height being 2m is based on this being recognised as sufficient height to protect the privacy of householders without impinging in a detrimental manner on the enjoyment of the residential amenities of neighbours.
- The Planning Authority should have required a reduction in height of the boundary to a maximum of 2m.
- The Board is requested to impose a condition requiring this reduction in height in order to safeguard and protect their residential amenities.

## 6.2. Applicant Response

6.2.1. The applicant's response can be summarised as follows:

- The works subject to this application arose from the reconstruction of the block wall to the rear for structural reasons after identifying cracking in the wall and to create further privacy between No. 48 and No. 49 Silchester Park.
- The extension to No. 49 has given rise to the need for additional privacy. The appellants advised the applicants that they would erect a fence to compensate for the loss of privacy that arose from the works carried out to No. 49 Silchester Park.
- They removed a mature tree that provided privacy between the two properties due to the likelihood of it causing damage to the foundations. This tree had provided privacy screening to both properties close to the sitting out areas associated with each property.
- The size of the gardens, the level of differences and orientation of their site and the appellants means that little to no overshadowing effect arises from these works and it is not considered that they cause any undue negative effect on the enjoyment of the amenity of the appellants property.

- It is not reasonable to conclude that the new boundaries are contrary to Zoning Objective A.
- The patio level on the opposite side of the wall is lower and the works arising from the extension of No. 49 compromised the established privacy they previously enjoyed.
- The Board is sought to uphold the decision of the Planning Authority in this case.

### 6.3. **Planning Authority Response**

6.3.1. The Planning Authority Response can be summarised as follows:

- The grounds of appeal do not raise any new matter which would justify a change in attitude to the proposed development.

### 6.4. **Observations**

6.4.1. None.

### 6.5. **Further Responses**

6.5.1. None.

## 7.0 **Assessment**

7.1. Having inspected the site and its setting, having had regard to the information presented by the parties to this appeal and all relevant planning provisions, I consider the key planning appeal case are the visual and residential amenity concerns raised by the appellants in their appeal submission to the Board. In this regard they do not object to the principle of the applicants works to the boundary wall between their property and the appellants property but they do object to the height of the amended boundary which they seek the Board amend by way of condition to a maximum height of 2-meters.

7.2. This appeal site is zoned under the Dun Laoghaire Rathdown County Development Plan, 2016-2022, as Objective A with the stated land use objective for lands subject to this zoning is: *“to protect and/or improve residential amenity”*.

- 7.3. In terms of permitted, open for consideration and not permissible development the development sought under this application, i.e., boundary treatments are not specifically listed.
- 7.4. Section 8.3.7 of the Development sets out that in these cases these will be considered on a case-by-case basis in relation to the general policies of the Plan and to the zoning objectives for the area in question and I am cognisant that boundary treatments are important features in defining properties.
- 7.5. In general, they are a type of proposed development deemed to be acceptable subject to safeguards which in this case that having regard to the land use zoning objectives they should not conflict with the protection and improvement of residential amenities of properties in the vicinity. In addition, their design should also be visually appropriate to their site setting and assimilate positively with the pattern of development that characterises the area in which they are provided.
- 7.6. Having carried out an inspection of the site I observed that there is a difference in ground levels between the rear private amenity spaces of No. 48 Silchester Park, the appeal site and No. 49 Silchester Park. I also observed that these properties have been extended to the rear with both properties having single storey rear extensions that open onto what are sizeable in depth and width rear garden areas.
- 7.7. The amended block wall that consists of cavity block is located towards the rear most end of No. 48 Silchester Park and it has a given height of 2.34m from the adjoining rear ground level which at this point appears to be slightly higher to the ground level to the rear of the main dwelling and its recent single storey extension. This height is not uncharacteristic of rear boundaries and the use of a solid material in the construction results in a longer lasting boundary solution between properties. At this height and given the substantive width and depth of the rear private amenity spaces serving both the subject site and No. 49 Silchester Park, the appellants property, it does not give rise to any significant overshadowing nor is it a boundary treatment that is inconsistent with its setting.
- 7.8. In relation to the raised timber fence on posts which has been attached by timber posts to the original block boundary wall in proximity of the rear elevation of No. 48 Silchester Park and running along the common boundary with No. 49 for c15.5m this additional boundary treatment has resulted in this stretch of boundary having a given height of



2250mm as measured from inside the subject property. This is not excessive in its overall height nor is it excessive when regard is had to the lower ground level of No. 49 Silchester Park. Based on the fact that at this height it affords privacy between these properties without giving rise to any significant level of overshadowing to the east west rear garden spaces adjoining it arising. In essence in height, it is similar to the 2-addition of two cavity blocks over the height of the existing boundary wall.

- 7.9. In terms of its visual appearance, I consider that whilst this addition has been treated in a visually aesthetic pleasing manner facing into the rear private amenity space of No. 48 Silchester Park with its facing finished in horizontal timber treated planks, I do not consider its finish addressing into the adjoining property of No. 49 Silchester Park has been finished to the same high standard.
- 7.10. As viewed from No. 49 Silchester Park this boundary treatment consists of different in height posts and has the appearance of timber hoarding support structure.
- 7.11. Whilst giving rise to improved privacy between both properties in the absence of a matching horizontal timber treated plank finish this in my view has resulted in this new boundary treatment that sits over an existing block wall being a visually incongruous and out of character boundary treatment when appreciated from the private rear amenity space of No. 49 Silchester Park.
- 7.12. Subject to this concern being addressed by way of condition I am of the view that the modest additional height that the revised boundary treatment between the subject property of No. 48 Silchester Park and No. 49 Silchester Park, the appellants property, can assimilate with its visual setting and provide improved residential amenity between these properties in terms of providing improved levels of privacy without any adverse overshadowing or other disamenity arising.
- 7.13. Based on the above considerations I am of the view that subject to the safeguard discussed that the retention of the boundary treatments sought under this application is consistent with the zoning objective for the site and its setting. Alongside is consistent with the Development Management guidance set out in the Development Plan which essentially seeks for residentially based developments in mature established suburban settings like this to assimilate appropriately with the visual amenities of their setting without giving rise to any serious injury to properties in their vicinity.

## 8.0 **Appropriate Assessment**

8.1. Having regard to the nature and scale of the proposed development, the brownfield and serviced nature of the site, the significant lateral separation distance between the site and the nearest European site, the lack of any connectivity between the two together with the nature of the receiving environment, 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 permission be **granted**.

## 10.0 **Reasons and Considerations**

10.1. Having regard to the pattern of boundary treatments in the area and the design and scale of the proposed extension in height to the existing rear boundary wall between No. 48 Silchester Park and No. 49 Silchester Park and to the provisions of the Dún Laoghaire-Rathdown County Council Development Plan, 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the character of the streetscape and would not seriously injure the amenities of nearby dwellings. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### 10.2. **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars, 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 prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The external finishes of the rear timber boundary extension shall have a matching timber finish on its façade facing No. 48 and No. 49 Silchester Park. In this regard, the finish facing into No. 49 shall be faced in horizontal timber cladding that matches those of facing into No. 48 in respect of materials, colour and texture. These works shall be carried out within 3-months of the decision date.

**Reason:** In the interest of visual amenity.

**Advisory Note:** Section 34(13) of the Planning and Development Act, 2000 as amended, indicates that: *“a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development”*.

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Patricia-Marie Young  
Planning Inspector

24<sup>th</sup> day of January, 2022.