



An
Bord
Pleanála

Inspector's Report

ABP-315067-22

Development	Retention of fence and gates.
Location	Ballyknock, Cashel, Co. Tipperary.
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2260436
Applicant(s)	Liam Devitt.
Type of Application	Retention Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Richard Wood
Observer(s)	None
Date of Site Inspection	18 th April 2023.
Inspector	Peter Nelson

1.0 Site Location and Description

1.1. The site is located on a local cul-de-sac road. The local road is off the R639, which connects with the M8 at Junction 8. The site is situated c.2.3km from Cashel. The site contains a yard and a large shed. There are dwellings to the east and west of the site. To the rear of the site is open land. There is a golf driving range at the end of the cul-de-sac. The stated site size is 0.04 hectares. At the time of the site inspection, there was a minibus and van on the site. To the front of the site is open mesh fencing with gates, which are the subject of this appeal.

2.0 Proposed Development

2.1. Retention is sought for 'Resista' Mesh fencing and gates to the front of the site. The boundary fence and gates are 2.4m high.

3.0 Planning Authority Decision

3.1. Decision

Tipperary County Council issued a decision to grant on 17th October 2022.

3.2. Planning Authority Reports

3.2.1. The Planning Report dated 17th October 2022 reflects the decision to refuse. The main points can be summarised as follows:

- The principle of development is considered acceptable having regard to the established use of the site and zoning objectives of the lands.
- The site contains a shed granted under planning reference 07482 for a heavy goods vehicle and equipment.
- The proposed development is visually acceptable and presents no design-related issues or concerns.

3.2.2. Other Technical Reports

No comments from the area engineer.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

On file, there is one third party observation (the appellant). Issues raised are:

- There has been a history of enforcement on the site.
- The site has been used as a depot for parking and maintaining vehicles in the operation of a transport business, contrary to planning law.
- The current fencing structure and gates are not compliant with the planning granted for the premises.
- The strategic angle of the gates suggests that the applicant intends to continue to operate the transport business from the premises.
- The development has a negative impact on the landscape.

4.0 **Planning History**

P.A. Ref:0249

Outline permission was granted on 5th April 2002 for a three-span shed and entrance.

P.A. Ref:07482

Permission was granted on 17th May 2007 to retain a shed as constructed for a heavy goods vehicle and equipment. Condition No.2 related to the timing of the proposed landscaping and the requirement of tree planting on the north side of the building.

Enforcement

P.A. Ref: TUD -15-189 File closed as the entrance was in place for more than seven years.

P.A. Ref: TUD-21-169 Warning letter issues regarding the unauthorised development of the erection of green paladin fencing with gate. Enforcement Notice on foot of the warning letter

5.0 Policy Context

5.1. Development Plan

The Tipperary County Development Plan 2022-2028 is the operative Development Plan for the area. This plan came into effect on 22nd August 2022.

Policy 11-16

Facilitate new development which integrates and respects the character, sensitivity and value of the landscape in accordance with the designations of the Landscape Character Assessment, and the schedule of Views and Scenic Routes (or any review thereof). Developments which would have a significant adverse material impact on visual amenities will not be supported.

5.2. Natural Heritage Designations

None relevant

6.0 The Appeal

6.1. Grounds of Appeal

The main points can be summarised as follows:

- The original planning permission for the site included boundary walls, landscaping and tree planting.
- Tipperary County Council has not dealt with the unauthorised use on site.
- There is an intolerable amount of commercial activity on site.
- There are no sanitary facilities on site leading to unsanitary behaviour.
- The only electricity on site is a noisy generator.

- Development is unsightly and not in keeping with the surrounding developments.
- Development has a significant impact on the neighbouring property and the occupant's quality of life.

6.2. Applicant Response

- None

6.3. Planning Authority Response

- The site inspection undertaken under PI Ref:2260436 and Enforcement File TUD-21-169 did not show any issues, unsanitary behaviour, or commercial activity.
- Planning enforcement file TUD-15-189 relates to the alleged unauthorised development of the use of the site for parking and maintenance of busses and non-compliance with conditions 1 and 2 attached to 07/482. The site inspections in March and November did not show unauthorised use of the shed. The file was recommended to be closed.
- The decision to grant permission to retain the as-constructed fencing and gate is appropriate.
- The enforcement cases mentioned in the appeal do not relate to the subject site.
- Clarification of the enforcement file reference numbers mentioned in the planner's report.

6.4. Observations

- None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, carried out a site inspection, and having regard to the relevant local/regional/national policies and guidance, I consider that the key issues on this appeal are as follows:

- Visual Amenity
- Enforcement Issues
- Appropriate Assessment

7.2. Visual Amenity

7.2.1. The development to be retained consist of a 2.4m open mesh fence with a vehicle entrance of 6.4m with double open mesh gates. The gates and fence enclose an existing yard and a shed for a heavy goods vehicle and equipment. Given the site's existing use and authorised shed, I consider the fencing and gates acceptable in principle.

7.2.2. I note the appellant considers that the development is unsightly. In terms of visual impact, I consider that the subject fencing is not incongruous or overbearing on this cul-de-sac laneway and that the proposed fencing would not negatively impact the visual amenities of the local area.

7.2.3. To enhance the area's visual amenity, if the Board is minded to grant retention permission, I recommend attaching a condition requiring a planting scheme inside the fencing.

7.3. Enforcement Issues

It is claimed by the appellant that there is an unauthorised use on site. The appellant claims that the site is being used as a bus depot which is not compliant with the original planning permission to retain the shed for a heavy goods vehicle and equipment. At the time of inspection, there was one minibus on the site. I consider the claim of an unauthorised change of use an enforcement issue, and the Board

has no function in enforcement matters. It is, therefore, an issue to be addressed by the local authority.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. In conclusion, I consider the proposed fencing and gates acceptable, do not materially contravene the zoning objectives for the area and do not adversely impact the amenities of adjoining property or the area. I, therefore, recommend that retention permission for the above-described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the nature, scale and design of the proposed development and to the character of the general area, I consider that subject to compliance with the conditions set out below, the proposed development does not contravene materially the zoning objectives for the site as set out in the current Tipperary County Development Plan, would respect the existing character of the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be retained and completed in accordance with the plans and particulars lodged with the application.
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	Reason: In the interest of clarity.
2.	The development to be retained shall incorporate a continuous hedge of indigenous species (e.g., holly, hawthorn or beech) planted within the fence. Reason: In the interest of visual amenity.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Peter Nelson
Planning Inspector

7th July 2023