



An
Bord
Pleanála

Inspector's Report

ABP-317852-23

Development	Permission for a block boundary wall and associated site development works.
Location	The Rock Road, Haggardstown, Blackrock, Dundalk, Co. Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	22897
Applicant(s)	Donal and Caroline Carroll
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Donal and Caroline Carroll
Observer(s)	None
Date of Site Inspection	19 th October 2023
Inspector	Emma Nevin

1.0 Site Location and Description

- 1.1. The application site relates to a linear strip of land, with a stated area of 0.0811ha., which is the access point from the main road, the Rock Road, leading to larger agricultural lands to the rear, to the northwest. The boundary to the Rock Road comprises an existing entrance with stone wing walls and pillars.
- 1.2. The immediately adjoining area is defined by individual detached dwellings to the south-west of the site. There is an existing school to the northeast of the site, the grounds of which adjoin the entire planning application boundary. There is an existing ESB substation and block wall to the north-east corner of the site, to the roadside boundary. To the rear, northwest, lies extensive agricultural lands, in the applicant's ownership.
- 1.3. The site is located within the urban area of Blackrock and is some 3.2km to the south of Dundalk town centre.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a block boundary wall and associated site development works.
- 2.2. The wall as proposed will run the entire length of the north-northeastern site boundary, adjoining the school grounds, for a stated distance of some 71.4 metres. The wall will have a height ranging from 1.65metres to 2.8 metre, at its heights point, and will be stepped following the gradual fall of the site to towards the rear from the Rock Road.
- 2.3. The proposed wall will comprise of a fair faced brick finish, with proposed screen planting.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority refused permission, following further information request, on 24th July 2023, for the following reason:

“The proposed block wall would create a narrow gap along its entire length ranging from 220mm to 760mm, between it and the existing paladin fence located on the school lands, thus causing a potential trip hazard. Therefore, the applicant has not satisfactorily demonstrated that the proposed wall does not pose a potential risk to public safety due to its close proximity to the existing paladin fence on the schools’ grounds. Therefore, the development if approved would set an undesirable precedent for other similar developments in the surrounding 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 dated 13th January 2023 and 21st July 2023 have been provided.

3.2.2. The original planning report considered it necessary to seek further information on the following items:

- The applicant was requested to submit a revised site layout plan, section through the site and other relevant drawings showing adequate separation distance between the proposed wall and the existing paladin fence along the school boundary to enable a smooth plaster finish on both sides of the walls, and not to cause any type of safety or health risk.
- The applicant was requested to submit comprehensive evidence of their ownership/control over the entirety of the lands required for this development given the proximity of the proposed wall to the existing school fence.

3.2.3. The second planning report considered the response from the applicant in relation to the further information as follows:

- In response to item 1, the revised site layout and details wall plans indicated the proposed wall positioned very close to the land ownership boundary, with a gap between the wall and the existing paladin fence on the school grounds. A report was also submitted as prepared by Safety First, Health and Safety Consultants, which concluded that the mesh palisade fence erected by the school could be dismantled and removed to overcome any potential health and safety issues. However, the planner determined that this would require works on lands not in the applicant’s ownership/control and no legal

agreement has been submitted to allow for such works. It was considered that the applicant had not satisfactorily demonstrated that the proposed wall does not pose a potential risk to public safety due to its close proximity to the existing paladin fence on the school grounds, and therefore it was recommended that permission should be refused on that basis.

- In response to item 2, the applicant clarified the query in relation to ownership matters, the planner was satisfied with this response.

3.2.4. Other Technical Reports

- i. The planning report indicates that Infrastructure Section i.e. Traffic and Transportation were consulted, who requested further information in their report dated 9th December 2022, in relation to the removal of the existing walls, piers and gates at the entrance to the site, to be set back by 2 metres to facilitate a Part 8 proposal along the Rock Road.
- ii. The planner's assessment notes that the walls, piers, and gates are not the subject of the instant planning application and appear to have been built in compliance with the previously granted planning permission reference 19/921, (as noted in Section 4.1 below).
- iii. The planner also noted that the infrastructure section in their report dated 20th November 2019, had no objection to the development permitted under Ref: 19/921.

3.3. Prescribed Bodies

No prescribed bodies were consulted.

3.4. Third Party Observations

None received.

4.0 Planning History

- 4.1. 19921: Conditional planning permission and retention permission granted by Louth County Council on 13th December 2019 for the construction of piers, wing walls and

side walls to existing entrance, the retention of an existing block boundary wall and associated site development works.

4.2. Revant adjoining planning history:

- 4.2.1. PL 15.240058/Ref.11147: Conditional planning permission was granted by Louth County Council and on appeal to An Bord Pleanála (PL 15.240058) on 5th September 2012 to erect a two storey primary school, consisting of 8 no. classrooms, a general purpose room and various ancillary rooms. The site works included a new vehicular entrance, set down area, staff car park, landscaping and ballcourt.

I note that the permitted development included a 2.1 metres block wall around the perimeter of the site and grounds i.e. to the sides and rear boundaries of the site.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Louth County Development Plan 2021 – 2027, came into effect on 11th November 2021, as amended by Variation 1 on the 18th July 2022.
- 5.1.2. Under the Louth County Development Plan 2021 – 2027, as amended by variation 1, the site is zoned “A3 New Residential Phase 2” and “G1 Community Facilities”.
- 5.1.3. The following policy objectives are relevance:
- Chapter 8 – Appropriate Assessment
 - Chapter 13 – Development Management Guidelines
 - i. Section 13.9.15 Boundary treatments, which relates to specific requirements pertaining to proposed boundary treatments.
 - ii. Section 13.13.7 Landscaping and Boundary Treatments, which relates to the requirement to submit planting and boundary treatments as part of any application.

5.2. Natural Heritage Designations

5.2.1. The subject site is not located within a designated European Site. However, the closest such sites are:

- The Dundalk Bay SPA (Site Code IE0004026), which is approx. 0.85km from the site.
- The Dundalk Bay SAC (Site Code IE0000455), which is approx. 0.85km from the site.

5.3. EIA Screening

5.3.1. I refer the Board to Appendix 1 – Form 1 EIA Pre-Screening of this report, which concludes that the proposed development is not a class of development as specified in the Planning and Development Regulations, 2001, as amended. Therefore, preliminary examination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal has been received on behalf of the applicants Donal and Caroline Carroll against the decision of Louth County Council to refuse permission under Reg. Ref. 22/897.

6.1.2. The appeal includes a detailed report on the local authority decision and notes some key items from the 2 no. case planning officers reports.

6.1.3. The grounds of the appeal are as follows:

- Single reason for refusal, and some key material considerations have not been considered by the Council in their determination.
- The fence in question was a temporary solution, is not in the correct place and does not correspond correctly to the ownership.
- Under Reg. 11/147, a wall was to be erected in this location, which has not been provided. The proposed wall would serve the purpose of the wall originally anticipated.

- Planning permission cannot be withheld in this instance based on impact predicted on an unauthorised development.
- The Council should have issued enforcement proceedings in respect of the unauthorised fence.
- The appellant does not wish to take an adversarial approach to the school and would be willing to engage with the school regarding the development.
- The professional opinion expressed by Safety First, indicates several key factors that An Bord Pleanála should consider as follows:
 - There would be no trap hazard or danger to public safety in this instance.
 - There is an existing similar potential trip location where there have been no such occurrences, which is a valid precedent for this case.
 - The unauthorised fence in place is not a viable solution for enclosure in this instance and a wall, as proposed, is preferable.
 - The fence is past its lifespan.
 - The fence in situ is found to be a 2.4 metre high and of an anti-climb nature, with mesh spacings, making climbing over impossible for school children as it has been designed for this purpose.
 - The intrusion of tree limbs and branches have compromised the integrity and structure of the fence.
 - Data available on this type of fence indicates a relatively short lifespan and certainly not 10 years.
 - *“The applicant is proposing to construct a boundary wall on or as near as possible to the boundary line without compromising or disturbing existing structures or landscaping on the school property including a tarmac playground, Aco drainage to the playground edges, kerbing, existing mature tree planting and an ESB substation”.*
- The landscaping proposed on the submitted landscaping plan (drawing no. 20323-2-103) would be effective in further deterring trespass.

- There can be no undesirable precedent attributed to this development predicated on an unauthorised development. The undesirable precedence in this case is the fence.
- The granting of planning permission in this instance is in accordance with, and not contrary to the proper planning and sustainable development of the area.

6.2. **Applicant Response**

None received.

6.3. **Planning Authority Response**

No response was received.

6.4. **Observations**

None received.

6.5. **Further Responses**

None received.

7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the appeal, I consider the main issues which arise in relation to this appeal are as follows:

- i. Adjoining palisade fence and issues raised in relation to unauthorised development, and condition of the existing palisade fence to the adjoining site.
- ii. Hazards arising from the proposed development.
- iii. Endangerment of public safety.
- iv. Precedent.
- v. Appropriate Assessment, and
- vi. Other Issues.

7.2. Adjoining palisade fence and issues in relation to unauthorised development, and the condition of the existing palisade fence to the adjoining site.

- 7.2.1. The appellant highlights several issues with respect to the adjoining palisade fence on the school grounds to the north and northeast of the site, namely the unauthorised nature of the fence, the unsuitable nature of the fence as a boundary treatment at this school location, and the condition of the fence.
- 7.2.2. While the presence of the existing fence is noted, I cannot comment on the alleged unauthorised nature and or status of the fence as this does not form part of the instant planning application.
- 7.2.3. Any concerns regarding unauthorised development are a matter for planning enforcement within the local authority and should be raised in the appropriate manner.

7.3. Hazards arising from the proposed development.

- 7.3.1. I note the expert report prepared by Safety First, Health and Safety Consultants submitted as part of the planning application. Following an assessment of the site conditions, Safety First have concluded that there is no existing trap hazard at this location. Their report also references the similar arrangement between the existing wall and the existing ESB substation, which adjoins the site to the northeastern corner, closest to the Rock Road boundary, and state that there have been no incidents in respect to trap hazards at this location.
- 7.3.2. The presence of the arrangement between the existing wall and existing ESB substation was noted at site inspection stage. The existing fence on the school grounds has been designed in such a manner to prevent climbing and noting the proposed infill landscaping arrangement to the proposed boundary wall, I do not consider that the proposed wall would result in a potential trap hazard at this location given the existing and proposed arrangements.

7.4. Endangerment of public safety.

- 7.4.1. The findings of the report prepared by Safety First, are noted. Following an assessment of the existing and proposed arrangements at site inspection stage, I consider that there will be no danger to public health created in this instance.

7.4.2. The appellant has stated that all works involved in the excavation of the foundations and the construction of the proposed wall would be undertaken from the applicant's side, thus eliminating any disturbance, health and safety and insurance issues. Therefore, I do not consider that the proposed development would endanger public safety at this location.

7.5. Precedent

7.5.1. The appellant states that there can be no undesirable precedent attributed to this development, refers to the existing temporary fence, and notes the reason for refusal in this regard.

7.5.2. I note that all appeal cases are assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development.

7.5.3. Notwithstanding the above, I draw the Boards attention to the permission granted on the directly adjoining site for the school development permitted under Reg. Ref. 11/147. As noted by the appellant, the development as permitted included the construction of a 2.1 metre high boundary wall around the perimeter of the site. It was evident at time of site inspection that this boundary wall has been partly constructed, the boundary wall was visible to the rear of the school grounds, i.e. the northern boundary, however, as noted in the reports there is an existing palisade fence adjoining the boundary with the appellant site. Albeit a small section of the boundary wall to the school has been constructed to enclose the ESB substation to the school site and this section of the wall is visible from the appellants site and adjoins the existing pier on the appellants' site.

7.5.4. I also note that there is an existing high boundary wall (in excess of 2 metres) to the site boundary with the adjoining residential dwelling to the west-southwest, fronting the Rock Road (permitted under 199/21).

7.5.5. The local authority reason for refusal, stated that the "*development if approved would set an undesirable precedent for other similar developments in the surrounding area*", however, noting the existing boundary walls permitted and constructed in the immediate vicinity, I do not consider that the boundary wall would set an undesirable precedent and would be consistent with the adjoining boundary treatments in the immediate vicinity.

7.6. **Appropriate Assessment**

7.6.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the distance to the nearest European site, 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.

7.7. **Other Issues – Landscaping and Finishes**

7.7.1. A landscaping plan (drawing no. 20323-2-103) was submitted as part of the appeal submission, which indicates that infill planting is proposed at two locations, 'infill planting A', which will comprise of a native hedge with trees lining the inside of the proposed boundary wall i.e. to the southern elevation. Additional planting is also proposed 'infill planting B', which will comprise of a native hedge with trees, and will be located in the narrower space between the existing palisade fence and the proposed boundary wall.

7.7.2. I consider that the planting as proposed (drawing no. 20323-2-103) will deter potential access into the gap between the existing fence and the proposed and as such will assist to reduce any hazard associated with the wall. The proposed planting will also soften the appearance of the proposed wall as viewed from both the school and the adjoining roadside.

7.7.3. In the event that the Board considers that the proposed development should be granted, the applicant should be conditioned to carry out the proposed landscaping as per the landscaping plan submitted as part of the appeal submission (drawing no. 20323-2-103).

7.7.4. In terms of proposed finishes to the boundary wall, I note that the proposed boundary wall comprises of a block wall with a plaster finish with boundary wall pole comprising of pointed mortar joint finish. I consider that the design of the wall to be acceptable and in keeping with the existing boundary walls in the vicinity.

7.7.5. I note that the planner in their report expressed concerns in relation to the appellant not having access to complete the wall. However, as noted in the appeal, the applicant will complete all works within their own site boundary. The owner of the site has stated that they will assist in facilitating access through their lands prior to

construction the wall for landscaping arrangements in the event that the existing fence is removed, this shall be done by way of an agreement between the site owners.

8.0 Recommendation

8.1. I recommend that planning permission should be granted, subject to conditions, as set out below, for the following reasons and considerations.

9.0 Reasons and Considerations

9.1. Having regard to the location of the site on zoned lands in the Louth County Development Plan, 2021 – 2027, it is considered that subject to compliance with conditions set out below, the proposed development would not cause a hazard to the public, nor pose a potential risk to public safety due to its proximity to the existing paladin fence on the school grounds. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application , as amended by the further plans and particulars submitted on the 28th day of June 2023 and by the further plans and particulars received by An Bord Pleanála on the 21st day of August, 2023, except as may otherwise be required in order to comply with the following conditions.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed landscaping shall be implemented as per the ‘Landscape Plan – Infill Planting Between Wall and Fence Line” (drawing no 20323-2103) received by An Bord Pleanála on 21/08/2023.</p> <p>Reason: To protect the amenities of the area.</p>

3.	<p>The proposed boundary wall shall be rendered and capped on both sides.</p> <p>Reason: In the interests of visual amenity.</p>
4.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity</p>

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.

Emma Nevin
 Planning Inspector

21st November 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317852-23		
Proposed Development Summary	The erection of a block boundary wall and associated site works		
Development Address	The Rock Road, Haggardstown, Blackrock, Dundalk, Co. Louth		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
		Conclusion	
No	X	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required