



An
Bord
Pleanála

Inspector's Report ABP-319357-24

Development	Retention of a fence ranging in height from 2080mm to 2300mm above the adjacent ground level, atop the existing northern boundary-wall in the rear garden.
Location	9 Rowan Park, Blackrock, Co. Dublin, A94 Y6W9.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D24B/0002
Applicant	Stephen & Joanna Church
Type of Application	Retention Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant	Bill Nelson
Date of Site Inspection	22 nd October 2024
Inspector	Conor Crowther

1.0 Site Location and Description

- 1.1.1. The site is located along the northern boundary wall of the rear garden of No. 9 Rowan Park, Blackrock. The boundary wall is shared with the occupants of No. 10 Rowan Park, Blackrock (Appellant). This is reflective of a typical suburban rear garden setting. The rear garden area consists of both hard and soft landscaping and includes a mix of fencing, planting and walls along the boundary. The surrounding dwellings consist of two storey semi-detached dwellings with hipped roof profiles and various rear and side extensions. The dwellings are setback from the roadway which functions as a regional road.
- 1.1.2. The wider site area is bounded to the east by the rear gardens of dwellings fronting onto Stradbroke Road, to the west by Rowan Park (R827), to the south by No. 8 Rowan Park and to the north by the appellant's property - No. 10 Rowan Park. The Fern Dean nursing home lies further to the west of the site and Blackrock village lies approximately 1.38km to the northwest of the site.

2.0 Proposed Development

- 2.1.1. The development proposed to be retained is described as follows:
- A fence ranging in height from 2.08m to 2.3m and approximately 16.3m in length atop the existing low level northern boundary wall in the rear garden.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dún Laoghaire-Rathdown County Council (The Planning Authority) issued a GRANT of permission for the above-described development proposed to be retained on the 23rd February 2024, subject to 1 no. condition. There are no conditions of note.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

3.2.2. The Planning Officer's Report was issued by the Planning Authority on the 23rd February 2024 recommending a GRANT of permission, subject to 1 no. condition.

3.2.3. Other Technical Reports

3.2.4. None received.

3.3. Prescribed Bodies

3.3.1. None received.

3.4. Third Party Observations

3.4.1. A 3rd party observation was received from Bill Nelson, 10 Rowan Park, Blackrock. The issues raised by the observer are generally reflected in the 3rd party appeal and also raise the following:

- Materially contravenes the Development Plan.
- Not in accordance with the proper planning and sustainable development of the area.
- Additional load to the original block wall will cause it to fail which represents a health and safety risk.
- Enforcement action has been undertaken by the Planning Authority on this site in relation to unauthorised development (Ref. 35023).
- An engineer's assessment of the height of the boundary wall is included with the submission.

4.0 Planning History

Subject Site:

4.1.1. ENF Ref. 350/23 – Live enforcement case on site regarding the fencing subject of this retention permission application.

4.1.2. D06A/1578 – Permission GRANTED in 2007 for works to the existing two storey dwelling house and alterations to existing boundaries to adjoining properties

including the construction of a new screen wall along the boundary to the rear of No. 10 Rowan Park.

Includes Condition 6 limiting the rear boundary wall to the north to a maximum of 2m in height.

5.0 Policy Context

5.1.1. Dún Laoghaire Rathdown County Development Plan 2022-2028

5.1.2. The following are policies and objectives of relevance to the proposed development from the Dún Laoghaire Rathdown County Development Plan:

- The site is zoned Objective A *‘To provide residential development and improve residential amenity while protecting the existing residential amenities’*.
- Chapter 12 – Development Management
 - Section 12.8.7.2 ‘Boundaries’ – *‘In all cases, suitable boundary treatments both around the side and between proposed dwellings shall be provided. In this regard, boundary treatments located to the rear of dwellings should be capable of providing adequate privacy between properties’*.

5.2. Natural Heritage Designations

5.2.1. The closest site of natural heritage interest to the proposed development is the South Dublin Bay and River Tolka Estuary Special Protection Area (004024), South Dublin Bay proposed Natural Heritage Area (000210) and South Dublin Bay Special Area of Conservation (000210) which are located approximately 1km to the north of the development proposed to be retained. Other sites of relevance include:

- Dalkey Coastal Zone & Killiney Hill proposed Natural Heritage Area (001206) located approximately 2.5km to the east of the development proposed to be retained.

- Booterstown March proposed Natural Heritage Area (001205) located approximately 2.9km to the northwest of the development proposed to be retained.

5.3. EIA Screening

- 5.3.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A 3rd party appeal was submitted by Bill Nelson, 10 Rowan Park, Blackrock on the 21st March 2024 opposing the decision of the Planning Authority to GRANT permission. The grounds of appeal are summarised as follows:
- Stated that verbal commitment from 1st party to reduce height to 2 metres, but not undertaken.
 - Condition no.6 under the planning reference (D06A/1578) prevents the construction of a boundary wall higher than 2 metres.
 - The Planning Authority have not taken into account objections from the appellant's original submission, including health & safety.
 - Detracts from rear garden residential amenity.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority refers the Board to the Planning Officer's Report as the grounds of appeal do not, in the opinion of the Planning Authority, raise any new matters which would justify a change of attitude to the proposed development.

7.0 Assessment

7.1.1. I consider the main issues in determining this appeal are as follows:

- Principle & Consistency with Residential Zoning
- Height & Scale.
- Residential & Visual Amenity.

7.2. Principle & Consistency with Residential Zoning

7.2.1. As stated in Section 5.1.2 of this report, the site falls under Zoning Objective A which permits residential development, including altering of boundaries, in principle. Given that the development proposed to be retained involves the altering of a rear garden boundary, I consider the principle of development to be acceptable and consistent with the zoning for the site.

7.3. Height & Scale

7.3.1. The fencing proposed to be retained is timber in nature, approximately 16.3m in length and between approximately 2.08m and 2.3m in height. The fencing is affixed atop the original low-level pebble dashed northern boundary wall in the rear garden. The appellant contends that a previous onsite permission includes a condition which prevents the raising of the northern boundary wall higher than 2m. The condition in question reads as follows:

‘Condition 6 – The proposed boundary wall to the north shall be no higher than 2 metres’.

Enforcement action has been undertaken by the Planning Authority because of this which led to the subject retention permission application and appeal.

7.3.2. Whilst I agree that the above condition prohibits the raising of the northern boundary wall higher than 2 metres, I am of the view that the applicants are within their rights to seek retention permission for the aforementioned fencing in order to regularise the development. Provisions for this are set out under Section 32(1)(b) of the Planning & Development Act, 2000 (as amended).

7.3.3. From analysis of the elevational drawings submitted, the original height of the rear boundary wall atop which the fencing is affixed is approximately 1.5m. The Planning

& Development Regulations allow for boundary walls or fencing up to 2m in height to be constructed without requiring planning permission. This is reflected in Condition 6 attached to Ref. D06A/1578. I therefore consider it appropriate that 2 metres is the appropriate baseline for the assessment of the height of the proposed development to be retained.

7.3.4. With regard to the height and scale of the fencing, at its highest point, the fencing rises approximately 0.3m above the 2 metre limit set out above. From analysis of the rear garden area upon my site visit, I noted the existence of fencing further to the rear of the garden along the northern boundary which was raised at a height above the subject fencing. Given that the subject fencing represents a stepdown in height from the fencing towards the rear of the garden, that the fencing tapers down in height to 2.1m where the boundary adjoins the existing dwellings and that the increase in height above the 2 metre limit is modest in nature, I consider the height and scale of the development proposed to be retained to be acceptable.

7.3.5. I note that concerns were raised by the appellant with regard to the stability of the original boundary wall. This is, however, a civil matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

7.4. Residential & Visual Amenity

7.4.1. The appellant contends that the development proposed to be retained detracts from their rear garden residential amenity. The Planning Authority determined that the development proposed to be retained does not create any overbearing or undue overshadowing impacts on the appellant's property. The development proposed to be retained is back planted with shrubbery and hedging on both sides of the rear garden boundary which serves to limit any overshadowing or overbearing impacts arising, of which I consider to be minimal. The highest point of the development proposed to be retained (2.3m) is located at the furthest distance away from the existing dwellings and given the length, width and the southeast orientation of the rear garden in question, would not seriously injure the appellant's rear garden residential amenity. In addition, I note that the appellant's patio door is located closest to the boundary but will not be materially impacted by the development proposed to be retained due to the minor nature of the increase in height and scale. I

therefore do not consider the residential amenity of neighbouring properties to be negatively impacted.

- 7.4.2. With regard to the visual amenities of the area, I note that the development proposed to be retained is located within a rear garden setting. This means that the development proposed to be retained is not visible from the public realm and therefore would not seriously injure the visual amenities of the area. The back planting located along the boundary would further serve to limit any visual amenity impact to neighbouring properties. I therefore consider that the development proposed to be retained does not seriously injure the visual amenities of neighbouring properties or the surrounding area.

8.0 AA Screening

- 8.1.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.
- 8.1.2. The subject site is not located within or adjacent to any European Site. The closest European Sites, part of the Natura 2000 Network, are the South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC, 1 km from the proposed development.
- 8.1.3. The proposed development is located within a residential area and comprises the retention of fencing in the rear garden a semi-detached dwelling.
- 8.1.4. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.
- 8.1.5. The reason for this conclusion is as follows:
- Small scale and domestic nature of the development
 - The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats, absence of ecological pathways to any European Site.

- 8.1.6. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to the provisions of the Dún Laoghaire Rathdown County Development Plan, 2022-2028, the zoning objective 'A' for the site, the pattern of development in the area, and the nature and modest scale of the development proposed to be retained, it is considered that subject to compliance with the condition set out below, the development proposed to be retained would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of height and scale and would not set an undesirable precedent for similar developments in the area. The proposed development for which permission is sought to retain would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application, on the 8th day of January 2024, 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.

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.

Conor Crowther
Planning Inspector

14th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319357-24		
Proposed Development Summary	Retention of a fence ranging in height from 2080mm to 2300mm above the adjacent ground level, atop the existing northern boundary-wall in the rear garden.		
Development Address	9 Rowan Park, Blackrock, Co. Dublin, A94 Y6W9		
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	<input checked="" type="checkbox"/>
		No	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	Tick/or leave blank	State the Class here and the relevant threshold set out in the Class for the proposed development.	EIA Mandatory EIAR required
No	<input checked="" type="checkbox"/>	Not a class	No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No		Screening determination remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: Conor Crowther Date: 14th November 2024