



An
Bord
Pleanála

Inspector's Report

ABP 319629-24

Development	Wooden fence to the rear of property.
Location	45 Claremont Park, Circular Road. Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	24/60051
Applicant(s)	Niall O' Ciosain
Type of Application	Retention.
Planning Authority Decision	To Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Niall O' Ciosain
Observer(s)	Jerry & Briget Murphy Joan Gildea.
Date of Site Inspection	August 29 th , 2024.
Inspector	Breda Gannon

1.0 Site Location and Description

- 1.1. The site is located at No 45 Claremont Park, Galway. It accommodates a two-storey, semi-detached house with a shed and a small enclosed garden to the rear. The site is adjoined by similar properties to the north and south. Ground levels fall from north to south resulting in a significant difference in the finished floor levels between the subject site and the adjacent property to the north at No 44. A low wall and the recently constructed wooden fence, for which permission for retention is being sought, forms the common boundary between the two dwellings.
- 1.2. Claremont Park lies off Circular Road in the western suburbs of Galway city and one of a number of mature residential estates on this side of the city.

2.0 Proposed Development

- 2.1. The proposal seeks the retention of a wooden boundary fence at the rear of the site.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for the following reason:

‘The timber fence to be retained, by its appearance and design and by virtue of its adverse impact on adjoining properties and by the precedent it would create if permitted, would be an obtrusive feature, out of character with the prevailing pattern of development in the area and would seriously injure the residential amenities and depreciate the value of property in the area by virtue of its location and appearance and would therefore be contrary to the proper planning and development of the area’.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The wooden fence is attached to the northern site boundary of No 45 Claremont which is significantly lower than the adjoining dwelling at No 44. It is considered that the unfinished fence attached to the boundary is an obtrusive feature due to its appearance and finish, which in its current form is not acceptable.

3.2.2. Other Technical Reports

None

3.3. Prescribed Bodies

None

3.4. Third Party Observations

A submission was received from Malachy & Rose Bruen who reside at the adjacent property to the north (No 44 Claremont Park). The main issues raised relate to the height of the fence and its finish. There are also concerns that it blocks light into their garden and isolates them from their neighbours. There would be no objection to the applicant raising the height of the existing wall to that proposed by planning.

4.0 Planning History

No details of any relevant planning history have been submitted.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the **Galway City Development Plan 2023-2029**. The site is located in an area zoned 'R' with the following objective:

'To provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods'.

5.2. Natural Heritage Designations

The site is not located within any designated site. There are a number of European sites within 15km. Those within the development plan boundary include the following:

- Galway Bay Complex SAC.
- Inner Galway Bay SPA.
- Lough Corrib SAC.
- Lough Corrib SPA.

5.3. EIA Screening

- 5.3.1. Having regard to the nature of the development to be retained and the absence of any significant environmental sensitivity in the vicinity of the site, 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

The following summarises the grounds of appeal:

- The applicant's neighbour at No 44 erected a single-storey extension at the rear of the property with glazed double-doors and two side windows. Given the disparity in ground levels and the low height of the shared boundary wall, the fenestration directly overlooks the private amenity space of No 45.
- The fence was erected at the expense of the applicant to address overlooking issue created by the erection of the rear extension to the rear of No 44. It was believed that the fence was exempted development.
- The disputed fence is a simple typical fence and cannot be considered obtrusive, seriously injurious to residential amenity or depreciate the value of property in the vicinity for the following reasons.

- If there was no difference in ground level the fence would be considered exempted development. When viewed from No 44, the fence measures 1.8m in height and is therefore 0.2m lower than what would be considered exempted development under Class 5 of the planning regulations.
- The appearance and fence could not be considered to be 'out of character' when the fence along the north-western boundary of No 44 (between 44 and 43) is also a timber fence of similar design and construction and there are numerous examples of similar fences in the vicinity.
- Under the exempted development regulations, the occupants of No 44 could erect an even higher fence on their own side of the shared boundary wall without planning permission, which could rise up to 3.0m when viewed from No 45. It remains open to the occupants of No 44 to erect a wall/fence should they be minded to ameliorate their residential amenities or safeguard against any conceivable depreciation of property values.
- The fence could be softened by planting or painting. Removing it would leave the property overlooked from No 44.

6.2. Planning Authority Response

No response to the grounds of appeal were submitted by the applicant.

6.3. Observations

Observations were received from local residents residing at No 43 & 46 Claremont Park who support the retention of the boundary fence on the basis that it protects the privacy of rear gardens and is not obtrusive. Removing the fence would result in the rear gardens of No 44 and No 46 being permanently overlooked. It is also stated that similar fences have been erected at the back of No 43 and No 44.

7.0 Assessment

7.1. Introduction

- 7.1.1. Having examined all the application and appeal documentation on file, I consider that the main issues in this appeal are those raised in the grounds of appeal and the

planning authority's reasons for refusal and I am satisfied that no other substantive issues arise.

7.1.2. I consider that the main issues that arise for determination by the Board in relation to this appeal relates to the following:

- Impacts on the amenities adjoining property.
- Appropriate Assessment

7.2. Impacts on the amenities of the area

7.2.1. Ground levels on the appeal site are c 1m below the level of the adjacent neighbouring property on the north side. The original boundary between the properties was formed by low capped concrete block wall. Due to the difference in ground levels, the wall did little to protect the privacy of the rear garden space of either property.

7.2.2. The fence was erected by the appellant following the construction of an extension to the rear of No 44. The extension includes a patio door and windows with the potential for direct overlooking of the appeal site.

7.2.3. In order to prevent overlooking and provide a degree of privacy to the rear gardens of both properties, I accept that it is reasonable that the height of the common boundary be raised. Due to the variation in ground level, the impact of the fence is more pronounced from applicant's site. From the adjacent property it extends c 1m above top of the common boundary wall. It is a simple slatted wooden structure and is not, in my opinion, an obtrusive feature which would seriously detract from the visual amenity or depreciate the value of properties in the vicinity. I note that it is largely concealed from public view. I accept that the presence of the fence will marginally increase the level of overshadowing of No 44, however, this will not be significant.

7.2.4. I consider that the retention of the fence will ensure that the privacy and residential amenity of both properties is adequately protected. The proposal would not therefore be contrary to the zoning objective for the area or to the proper planning and sustainable development of the area.

7.3. Appropriate Assessment

- 7.3.1. Having regard to the nature of the development, the lack of any emissions therefrom and the distance from any European site it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1.1. On the basis of the above assessment, I recommend that permission be granted for the retention of the development for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard the differences in ground level between the site and adjacent residential property to the north, the location, size and finish of the fence to be retained, I consider that subject to the following condition, the proposed development would not impact on the residential or visual amenities of the area or depreciate the value of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be retained in accordance with the plans and particulars lodged with the application.</p> <p>Reason: In the interest of clarity.</p>
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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.

Breda Gannon
Planning Inspector

11th, September 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 319629-24		
Proposed Development Summary	Retention of wooden boundary fence to rear of property.		
Development Address	No 45 Claremont Park, Circular Road. Galway.		
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	Yes
		No	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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No		No.	Proceed to Q.3
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)
No		N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____