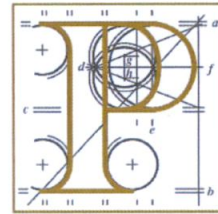


Our Case Number: ABP-314607-22

Planning Authority Reference Number: SD22B/0287



**An
Bord
Pleanála**

South Dublin County Council
Planning Department
County Hall
Tallaght
Dublin 24



Date: 14 September 2022

Re: Attic conversion for storage with two dormer windows to the rear. Three Velux windows to the front. Raised gable to the side.
Retention for extra height of timber fence to the front and side. Single storey extension to the front. First floor extension to the side. New pergola structure to the rear
55, Dodder Park Road, Rathfarnham, Dublin, D14 XE92

Dear Sir / Madam,

Enclosed is a copy of an appeal under the Planning and Development Act, 2000, (as amended).

The Board has accepted and will deal with this appeal, arising from a "split" decision on the basis of determining the application as if it had been made to it in the first instance and the Board's decision will operate to annul in total the decision of the planning authority as and from the time when the decision was made. The parties to the appeal are being advised accordingly. Furthermore you are hereby advised not to issue a final grant of permission in respect of these decisions.

Submissions of documents etc., to the Board. N.B. Copies of I-plans are not adequate, all drawings and maps should be to scale in accordance with the provisions of the permission regulations.

1. The planning authority is required to forward specified documents to the Board under the provisions of section 128 and section 37(1)(b) of the Planning and Development Act, 2000, (as amended). Please forward, **within a period of 2 weeks beginning on the date of this letter, the following documents:-**

(i) a copy of the planning application made to the planning authority and a copy of any drawings, maps (including ordnance survey number) particulars, evidence, a copy of any environmental impact statement, other written study or further information received or obtained by your authority in accordance with regulations under the Acts. If practicable, the original of any drawing with coloured markings should be provided or a coloured copy,

(ii) a copy of any technical or other reports prepared by or for the planning authority in relation to the application,

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Facs Fax (01) 872 2684
Láithreán Gréasáin Website www.pleanala.ie
Ríomhphost Email bord@pleanala.ie

64 Sráid Maoilbhríde 64 Marlborough Street
Baile Átha Cliath 1 Dublin 1
D01 V902 D01 V902

- (iii) a certified copy of the relevant Manager's Order giving the decision of the planning authority,
- (iv) a copy of the notification of decision given to the applicant,
- (v) particulars of the applicant's interest in the land or structure, as supplied to the planning authority,
- (vi) a copy of the published notice and a copy of the text of the site notice erected on the land or structure,
- (vii) a copy of requests (if any) to the applicant for further information relating to the application under appeal together with copies of reply and documents (if any) submitted in response to such requests,
- (viii) a copy of any written submissions or observations concerning the proposed development made to the planning authority,
- (ix) a copy of any notices to prescribed bodies/other authorities and any responses to same,
- (x) a copy of any exemption application/certificate within Part V of the 2000 Act, (as amended), applies,
- (xi) a copy of the minutes of any pre-planning meetings.

2. To ensure that the Board has a full and complete set of the material specified above and that it may proceed with full consideration of the appeal, please certify that the planning authority holds no further material relevant to the case coming within the above list of items by signing the certification on page 3 of this letter and returning the letter to the Board.

3. In addition to the documents mentioned above, please supply the following:- Particulars and relevant documents relating to previous decisions affecting the same site or relating to applications for similar development in near proximity. "History" documents should include;

- a) Certified Manager's Order,
- b) the site location, site layout maps, all plans and
- c) particulars and all internal reports.
- d) details of any extensions of time given in respect of previous decisions.

Copies of I-plan sheets are not adequate.

Where your records show that a decision was appealed to the Board, it would be helpful if you would indicate the Board's reference.

Submissions or observations by the planning authority.

4. As a party to the appeal you may, under section 129 of the 2000 Act, (as amended), make submissions or observations in writing to the Board in relation to the appeal within a **period of 4 weeks beginning** on the date of this letter. Any submissions or observations received by the Board outside of that period shall not be considered, and where none have been validly received, the Board may determine the appeal without further notice to you.

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Kevin Tiernan
19 Aranleigh Gardens
Rathfarnham
Dublin 14

An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902

8th September 2022

Re: Planning Reference SD22B/0287
Planning Authority: South Dublin County Council

Applicant: Brian O' Malley
Address: 55, Dodder Park Road, Rathfarnham, Dublin, D14 XE92

To whom it concerns,

I wish to appeal the decision made on 13th August 2022 by South Dublin County Council to refuse planning permission for the retention for extra height of the existing timber fence to the front and side of property.

Please find below the different grounds on which my client is strongly appealing this decision and which will be further expanded upon if required.

1. Client's right to a secure, safe and private dwelling

The needs of my client for extra security, safety and privacy has not been considered by the planner.

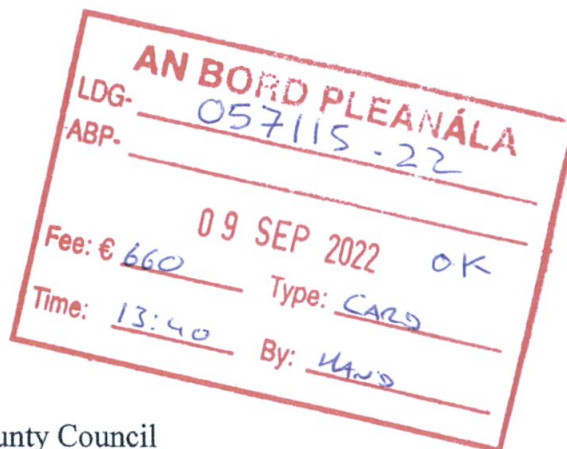
Any impact, and my client considers this impact to be insignificant, on streetscape character needs to be balanced against significant gain in security, safety and privacy. The Planners report does not consider the requirements of my client and his family at all nor mentions National Policy where changing needs of households should be supported. The report also fails to mention the following chapters from the SDCC County Development Plan which provide for my client's needs:

5.2.6 High Quality and Inclusive Development

*Guidelines for Planning Authorities in relation to residential development advocate a holistic approach to the creation of sustainable communities and residential neighbourhoods, with an emphasis on the design of quality urban environments. The Guidelines on Quality Housing for Sustainable Communities, DEHLG (2007) advise that successful design and good quality sustainable housing developments require a balance between a range of issues such as accessibility, **security, safety, privacy**, community interaction, availability of appropriate services and the provision of adequate space.*

6.7.1 Residential Design and Layout

*The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DHPLG (2009) advise that residents are entitled to expect that homes offer a high level of amenity, **privacy, security** and energy efficiency. Standards in relation to the quality of residential*



development including private open space, dwelling unit sizes, privacy and aspect are set out under Chapter 13 Implementation and Monitoring of this Plan.

The planner has not taken these provisions into account. Car theft and house burglary is becoming an increasingly prominent issue in the area and my client and his family feel more secure with the existing fence. If removed, my client and his families safety would be compromised.

The county development plan further provides for my client's right to a safer, more secure, private dwelling in the following chapter:

6.7.5 Privacy and Security

Privacy and security are important elements of the design in protecting residential amenity, particularly in higher density schemes. Security and privacy can be improved by providing a clear definition between public, semi-private and private spaces. Security can be aided by maximising passive and active surveillance of streets and spaces.

Policy H11: Privacy and Security

Promote a high standard of privacy and security for existing and proposed dwellings through the design and layout of housing.

H11 Objective 1: To ensure there is a clear definition and delineation between private, semiprivate (communal) and the public open spaces that serve residential development.

My client needs to retain the 1.9 meter fence for the reasons as set out above. To enforce a maximum height of 1.2 is extremely restrictive and provides very little protection from potential bad actors in the area. The council has failed to balance the security, safety and privacy needs of my client against the minutest of impacts on the visual amenity of the streetscape. I strongly urge the board to reflect on the needs of my client and his family, to reflect on the relevant sections of the county development plan in lieu of his families needs and to reflect in the overall context of objective 34 of the National Framework Policy which is to "Support the provision of lifetime adaptable homes that can accommodate the changing needs of a household over time."

2. Existing fence is not out of character with the pattern of development in the area

The planner's decision states the following: "*Having regard to the provisions of the South Dublin County Council Development Plan 2022 – 2028 and the overall design and scale of the development proposed for retention (Retention for extra height of timber fence to the front and side) it is considered that the proposed development would seriously injure the amenities of the area or of property in the vicinity and would, therefore, not be in accordance with the proper planning and sustainable development of the area and it is recommended retention be refused.*"

The reason given for the decision to refuse the retention of the existing fence is as follows: "*The timber fence subject to retention at a height of 1.9m would be significantly out of character with the pattern of development in the area and would seriously injure the amenities of property in the vicinity. Thus the proposed development would contravene the South Dublin County Development Plan 2022 - 2028 zoning objective for the area which seeks 'to protect and/or improve residential amenity' and would not be in accordance with the proper planning and sustainable development of the area.*"

The Planner's report makes no justification nor provides reasoning as to how the "amenities of the area will be seriously injured", or how the fence is considered to be "significantly out of character with the pattern of development in the area". Moreover, in light of the quoted sections of the CDP

referenced in point 1, how can the planner without justification consider the fence to be in contravention of the South Dublin County Development Plan and zoning objective for the area?

The following photographs show fences similar in height and some similar in design on Dodder Park Road:



Figure i: 27 Dodder Park Road - note the unkept nature of the fence with vegetation. My client's fence is designed and maintained to the highest standard.



Figure ii: 46 Dodder Park Road - Fence above 1.2m in height - similar design.



Figure iii: 53 Dodder Park Road - identical fence - symmetrical with my clients property.



Figure iv: 57 Dodder Park Road – fence well in excess of 1.2m in height.



Figure v: 75 Dodder Park Road – similar styled fence in excess of 1.2 meters in height

The planner has failed to take into account the multiple occurrences of similar fences along the same street let alone in the surrounding area. These precedences belie and disprove the planner's

false assertion that my client's fence is "significantly out of character with the pattern of development in the area" and would "seriously injure the amenities of property in the vicinity."

My client is disappointed that no balance was sought in determining the suitability of this fence as it is situated along a streetscape with similar structures and many unkept overgrown hedges well in excess of 2m. The finishes and materials are in keeping with the current appearance of my client's property and adjacent properties and it should therefore be accepted as an appropriate feature along the streetscape.

Furthermore, it would be regrettable for my client to concede all the gains referenced in *Point 1* relating to safety, privacy and security on account of a discriminatory judgement by the planner who hasn't fully considered the suitability of the structure in the overall context of the pattern of development in the area.

In conclusion, this application for retention is being made by a family, and not a property developer. My client is trying to provide an appropriate standard of safety, privacy and security for his family.

For the reasons stated above:

- The fence is in accordance with CDP Policies and National Plans;
- It is a fencing solution commonly found anywhere in Dublin, as well as in Rathfarnham;

My client has presented a case for appeal on the grounds that no balance was sought by SDCoCo in making it's decision. The council has referenced subsections of the County Development which in fact re-iterate this need for balance yet completely ignores my client's needs to provide an adequate level of safety, security and privacy for his family.

I strongly urge the Board to consider this appeal in the overall context of National Policy Objective 34. and the need for my client to move forward with his plan to meet the demands of his growing family by protecting the safety features of his current dwelling.

If you require any further information or clarification, please do not hesitate to contact me.

Mise le meas,

Kevin Tiernan

Kevin Tiernan

(AGENT)