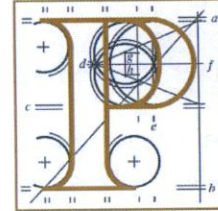


Our Case Number: ABP-315715-23

Planning Authority Reference Number: SD22B/0487



**An
Bord
Pleanála**

South Dublin County Council
Planning Department
County Hall
Tallaght
Dublin 24

**LAND USE, PLANNING
& TRANSPORTATION DEPT.**

09 FEB 2023

Date: 08 February 2023

Re: Front side garden fence for height above 1.2m.
16 The Close, Boden Park, Dublin 16.

Dear Sir / Madam,

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

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,
- (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,

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
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



AN BORD PLEANÁLA	
LDG-	06105723
ABP-	
07 FEB 2023	
Fee: €	660
Type:	Chogie
Time:	12:40
By:	Kevin

Date: 19 January 2023

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

Re: Planning Reference SD22B/0487

Planning Authority: South Dublin County Council

Applicant: Robin Petrie

Address: 16 The Close, Boden Park, Rathfarnham, Dublin 16, D16 A2W7

Dear Sir/Madam,

I wish to appeal the decision made on 11th January 2023 by South Dublin County Council to grant permission **subject to condition** for the retention of timber fence forward of and to the side of the front building line of the house, and bordering 14 The Close, Boden Park.

Please find below the different grounds on which my client is strongly appealing this decision and which will be further expanded upon if required. I would also like for the contents of the original retention application cover letter to be taken into account as part of this appeal.

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 and pedestrian, cyclist and driver visibility 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 which supports same. 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 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 "garden hopping". 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 and road visibility. I strongly urge the board to reflect on the relevant sections of the county development plan in lieu of my client's 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

In the "Record of Executive Business and Chief Executive's Order - Residential and Visual Amenity", it states the following:

"It is noted that the nature and scale of the fence is out of character with the immediate residential estate for which the site is set. It is also noted that any block or timber fences in the surrounding area are at a much lower level than the subject site with no present established in the area for a fence of height proposed by the subject application."

As part of the original application, my client provided multiple examples of similar fences in the "**immediate residential estate**". Here is another example of a similar fence located at 1, The Rise:



This address is located less than 100m from my client's property.



The chief executives report also states the following: **“It is also noted that any block or timber fences in the surrounding area are at a much lower level than the subject site with no present established in the area for a fence of height proposed by the subject application.”**

The above shows a precedent in the immediate area, therefore this quote should be discounted.

3. Existing fence does not pose a visibility risk for drivers, cyclists or pedestrians

In the “Record of Executive Business and Chief Executive’s Order - Residential and Visual Amenity”, it states the following: **“The height of the proposed fence poses a potential risk to pedestrian and cyclist safety along with other motor transport accessing the street due to the height and solid nature of the fence and the decrease in visibility that this provides to oncoming traffic.”**

The order then goes on to reference a submission by the roads department. Here is the report:

Roads Department – Planning Report



Register Reference: SD22B/0487 Date: 25-Nov-2022
Development: Front side garden fence for height above 1.2m.
Location: 16, The Close, Boden Park, Dublin 16
Applicant: Robin Petrie
App. Type: Retention
Planning Officer: BARRY COUGHLAN
Date Recd: 07-Nov-2022
Decision Due Date: 11-Jan-2023

Prior to commencement of any works in the public domain, and in order to comply with The Roads Act 1963 Section 13 Paragraph 10, a Road Opening Licence must be secured from South Dublin County Council, Roads Maintenance Department.



Description: Front side garden fence for height above 1.2m.

Note:
Front boundary walls that exceed 1200mm in height require planning permission.
Roads Department standard condition re front boundary walls is as follows:
1. The boundary walls at vehicle access points shall be limited to a maximum height of 0.9m, and any boundary pillars shall be limited to a maximum height of 1.2m, in order to improve forward visibility for vehicles.

The figures of 1800mm and 1962mm are quoted on the submitted drawing as the heights to be retained.
The height of this fence inhibits driver visibility and creates a road safety hazard, which creates an increased risk for pedestrians and vulnerable footpath users.

Roads Department are not in favour of retaining this structure.

Roads recommend refusal

Prepared: P. Mearns
Endorsed: B. Coughlan

My client’s property shares a boundary with 14, The Close. If the fence is reduced in height to 1.2m the visibility will not change as an existing hedgerow will remain which is identical in height:



**ARCHITECTURAL
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Kevin Tiernan
Planning Consultant
Architectural Designer

19 Aranleigh Gardens, Rathfarnham, D14 | 01 5349272
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It is also worth noting, many dwellings in the area consist of overgrown and thick hedgerows along their front garden boundary. These hedges are often times well in excess of two meters and occur to the side and front of properties. The impact of my client's fencing solution is minimal compared to some of the hedgerows in the area when it comes to driver visibility.

The Record of Executive Business and Chief Executive's Order also states the following: **"The height of the proposed fence poses a potential risk to pedestrian and cyclist safety along with other motor transport accessing the street due to the height and solid nature of the fence and the decrease in visibility that this provides to oncoming traffic."**

Again, the existing hedgerow will remain; multiple hedgerows in excess of 2m in height exist in the immediate area. Driver visibility has never been an issue. Furthermore, my clients property is situated at the end of a cul de sac and a grass verge separates the road from the boundary of his dwelling (start of driveway), therefore the street is never busy with cars moving at high speeds. The front boundary of my clients front garden provides adequate visibility for exiting and entering the property safely and securely as it is completely open.

4. Previous fence

Prior to the construction of the existing fence, a 1.83m high fence had been in place since 2009. No issues were raised until my client decided to upgrade to a newer model of fence which is safer and a higher standard design. My client should not be penalised for investing in the improvement of his home. The new fence is an improvement on the previous one and it would be completely unjust to enforce its removal.

Conclusion

My client is hopeful that some balance will be sought in determining the suitability of this fence as it is situated in an area with similar structures in excess of 1.2m. The finishes and materials of my client's fence are in keeping with the current appearance of my client's property and it should therefore be accepted as appropriate. It adds to the residential amenity both visually and with regard to the occupiers privacy and security.

It would be regrettable for my client to concede all the gains referenced in this letter relating to safety, privacy and security on account of a discriminatory enforcement that hasn't fully considered the suitability of the structure in the overall context of the pattern of development in the area and relevant sections of the CDP.

In conclusion, the original application for retention was made by an elderly couple, and not a property developer. My client is trying to provide an appropriate standard of safety, privacy, security and ease of maintenance

For the reasons stated above:



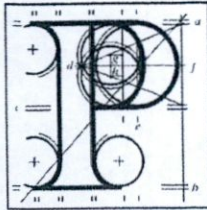
- The fence is in accordance with County Development Plan Policies and National Plans;
- It is a fencing solution commonly found anywhere in Dublin, as well as in Rathfarnham;
- It is an improvement on the previous fence which was of a similar height and wasn't subject to enforcement since 2009.

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 meet the demands of his 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.

Yours Sincerely

Kevin Tiernan
(Agent)



An
Bord
Pleanála

Planning Appeal Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Robin Petrie

(b) Address

16 The Close
Boden Park
Rathfarnham
Dublin 16

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Kevin Tiernan

(b) Agent's address 19 Aranleigh Gardens. Rathfarnham Dublin 14

Postal address for letters

3. During the appeal we will post information and items to you **or** to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1

The agent at the address in Part 2

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

South Dublin County Council

(b) Planning authority register reference number

(for example: 18/0123)

SD22B/0487

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

16 The Close, Boden Park, Rathfarnham

Dublin 16

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

Attached separately

Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the “yes, I wish to request an oral hearing” box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the “No, I do not wish to request an oral hearing” box.

Yes, I wish to request an oral hearing

No, I do not wish to request an oral hearing

NALA has awarded this document its Plain English Mark

Last updated: April 2019.

