



An
Bord
Pleanála

Inspector's Report ABP 305688-19.



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| Development | Covered terrace area to side / rear of existing house. |
| Location | 20 Belltree Avenue, Clongriffin. |
| Planning Authority | Dublin City Council. |
| Planning Authority Reg. Ref. | 3605/19. |
| Applicant | Karol and Taisa Gwaj. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant permission. |
| Type of Appeal | First Party against conditions |
| Appellant | Karol and Taisa Gwaj. |
| Observer | Keith and Caoimhe Matthews. |
| Date of Site Inspection | 10 th January 2020. |
| Inspector | Mairead Kenny. |

1.0 Site Location and Description

- 1.1. The site is the location of a detached two storey dwellinghouse in the heart of an area of new residential development in Clongriffin. The front and one side (the western and northern elevations) of the house face to the public realm. The rear (east) adjoins Belltree Walk where a third party observer resides. The separation distance which is shown in the application drawings between the rear façade of the existing house subject of the application and the rear of the terrace at Belltree Walk is over 13 m. The main garden area associated with the dwellinghouse is to the side (south) where there is a patio and an area under lawn.
- 1.2. Permission has been granted for dormer windows (2 no. to the front of the house and 1 no. to the rear) and other modifications. This development has not yet been undertaken.
- 1.3. In accordance with a decision of the Board to grant permission for the dormer windows, there is a requirement that a previously existing Perspex canopy be removed within 6 months of permission. That has been undertaken.
- 1.4. Photographs which were taken by me at the time of inspection are attached. These include a view of the development as seen from the observer's dwellinghouse at 21 Belltree Walk.

2.0 Proposed Development

- 2.1. The proposed development consists of a canopy type structure which would cover the area to the rear and side of the dwelling house. The selected materials include concrete roof tiles to match the existing house. Two velux windows are proposed at the southern side of the canopy. The canopy structure would comprise the tiled roof supported on concrete columns.
- 2.2. The elevation drawings indicate that the main / side garden canopy is to be an open structure.
- 2.3. There is a conflict in the drawings between the plans and elevations for the canopy proposed at the rear of the house. the proposed ground floor plan for instance indicates that the development would consists of the concrete columns positioned adjacent the boundary wall and gives no indication of any structure between the

columns. The elevations indicate that there would be a rendered wall enclosing the 'covered laneway' where it faces the houses at Belltree Walk. The height of the structure is 3.8m. The projection above the height of the existing boundary fence would be 1.8m.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to conditions including:

2. The proposed development shall incorporate the following amendments:

- (a) No canopy shall be provided over the passageway along the eastern boundary
- (b) A canopy shall be provided solely to the rear / south of the dwelling. This canopy shall be set in a minimum of two metres from the eastern boundary, shall be no deeper than 2.5m and shall have a hipped pitched roof over with a ridge no higher than 3.5m above ground level.

Reason : To protect the existing amenities.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points of the report include:

- Under the previous appeal the Inspector recommended that part of the canopy would be reasonable and recommended amending the canopy by way of a condition. That condition was that the canopy be reduced to an area of greater than 13.5 m² and confined to the south side of the dwelling. The Board decided to omit the canopy by condition.
- The approach recommended by the Inspector under the previous appeal is accepted.

3.2.2. Other Technical Reports

The Drainage Division indicates no objection to the development subject to a standard condition.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

This notes as follows:

- The requirement to remove the canopy within 6 months is not met.
- The proposal is more or less identical to the previous and the overall size and scale of the proposed development has increased.
- The applicant is attempting to increase the size of the liveable space at the property by covering over an existing laneway patio area and it is not in compliance with development plan policies.
- Major impact on residential amenity due to the overbearing visual impact.
- The height of the proposed development rises above the 1st floor height as far as the existing 1st floor windows.
- Inadequate provision for water and impacts on the boundary wall
- Removal of the general panels in the boundary wall for maintenance will not be possible
- Intensification of use.
- Lack of soundproofing.

4.0 **Planning History**

Under ABP 303925-19 the Board upheld the decision of the planning authority to grant permission for a development comprising:

- Conversion of an attic to provide 2 no. bedrooms with dormer windows to the front (2 no.) and rear (1 no.).

- Retention of privacy screen/canopy.

Under condition 2 of the decision of the Board, the **entire canopy was required to be removed within 6 months** from the date of the order. The stated reason for this condition was in the interest of residential amenity. The Board's Direction referring to the Inspector's recommendation to allow a part of the canopy indicated that the Board was not satisfied that the proposed retention of the canopy would not seriously injure residential or visual amenities of adjoining properties or the wider area.

In terms of the canopy design:

- the canopy was made of translucent Perspex material
- as seen in photographs it extended along the rear of the house (east) and the side elevation (south) which is adjacent the main garden.

5.0 Policy Context

5.1. Development Plan

Under the provisions of the **Dublin City Development Plan** policy the site is in an area zoned Z1 'to protect and improve residential amenities'. The policy relating to extensions to residential development is set out in section 16.10.12. Appendix 17 sets out more detailed provisions in relation to the approach to design and consideration of the impact on the amenities of the area.

There are no conservation objectives related to the site or the immediate surroundings.

6.0 The Appeal

6.1. Grounds of Appeal

The main points of the first party appeal are:

- The appeal is against a condition which effectively cuts the proposed development in half.

- The structure is needed for reasons related to privacy (overlooking), security and for general corporate of life (rain protection).
- All the proposal is materially different to the original including in terms of dimensions and materials.
- The structure will facilitate use of outdoor space by our children during periods of rain.
- The finished development will be similar to the type A houses in this development in relation to which a photograph is attached.
- There will be no overhanging of the property and the timber wall panels can be independently removed if necessary.
- We fail to see how the view of the structure which would match the design of the house would be different from the current view from the neighbouring gardens which is of the wall of our house.
- In condition 2 the canopy depth was restricted to 2.5 m and we would like to have 3 m deep so it will be in line with the dimensions of the concrete patio area.
- We enclose a number of letters of support from neighbours.

6.2. **Planning Authority Response**

No substantive response.

6.3. **Observations**

The main points of the observation include:

- The objections to the planning authority are re-stated.
- We retain grave concerns regarding the covered laneway and the overbearing impact of the proposed development, loss of outlook and loss of residential amenity.
- The (then) existing canopy has had a detrimental effect on our residential amenities.

- The covered laneway is being used as liveable space. Due to the lack of sound proofing and its overbearing nature it is impacting our amenities.
- The additional dormer to which we did not object has provided additional space for the house.
- The conditions of the decision of Dublin City Council are appropriate and necessary.

7.0 Assessment

- 7.1. I have noted some discrepancies in the application drawing drawings as described in the 'proposed development' section of this report. My assessment is based on the canopy being an open structure. I consider that the balance of evidence including the photographs submitted by the applicant indicates that the intention is to construct an open structure.
- 7.2. In my assessment of the proposed canopy structure I consider that it is sufficient to address the condition which is subject of the 1st party appeal and that a *de novo* consideration of the decision of the planning authority is not warranted.
- 7.3. At the outset I note that the subject development differs significantly from the previous canopy structure. The planning application submission includes a letter from the architect who indicates that the (then) existing Perspex and powder coated steel frame canopy was deemed not to be a suitable material and not in keeping with the surrounding building materials. I note that issues had been raised in the previous appeal that the selected materials caused some glare during daytime hours and a glow at night time if the lights were on.
- 7.4. I agree with the applicant's submission that the proposed development can be described as more suitably finished with materials that match the construction throughout. As such there is a significant change in circumstances in the consideration of this appeal. The Board's previous decision to omit the entire canopy may be considered in this context.
- 7.5. I consider that there is some merit in the appeal that when viewed from the public realm the development would be similar to an alternative house type in the area. The development would not adversely impact on views from the public realm.

- 7.6. I am satisfied that the main issue in this appeal therefore relates to the impact of the structure as viewed from Belltree Walk including the observer's house. From this direction when taken in conjunction with the permitted development I consider that the proposed canopy along the rear of the house would be of dominant and overbearing appearance. It would be 3.8m high and abut the boundary wall of the rear gardens. I note the stated advantages of the structure to the occupants of the proposed house and consider that it would effectively provide an additional storage area. Notwithstanding its open nature I consider that it would detract from the visual and residential amenities of the area and that the decision of the planning authority to require that it be omitted was appropriate.
- 7.7. In terms of any requirement for privacy I am of the opinion that due to the narrow nature of this rear 'laneway' and having regard to the fenestration at the rear of the applicant's house, there is no need for the covering of the laneway to ensure protection of the privacy of the occupants of the house.
- 7.8. In relation to the patio at the side / main garden I consider that in terms of the connection with the main house this structure is functionally more beneficial than the rear / covered laneway. I can accept that in relation to that part of the canopy there could be benefits to the occupants in terms of privacy and the provision of a covered play space which would be usable in inclement weather.
- 7.9. The planning authority refers to the option of granting this canopy subject to a 2m setback from the eastern boundary and a depth of 2.5m. I consider that the scale of the structure which could be provided based on the imposition of condition 2 would constitute an acceptable approach in the circumstances. However, I would agree with the appellant that a 3m deep structure at this location would also be acceptable and I recommend that the condition of the planning authority be amended.
- 7.10. In the event that the Board disagrees with this recommendation I would refer to the matter of the accuracy of the drawings which would need to be addressed. I also note that the points made in the observation relating to surface water drainage is suitably addressed by condition 5 of the decision of the planning authority. I do not consider that there are any concerns as a result of the proposed development in relation to the future maintenance of the timber panel boundary wall.

8.0 **Appropriate Assessment**

Having regard to the nature of the proposed development, which comprises modifications to a suburban dwellinghouse on serviced lands I am satisfied that 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.

9.0 **Recommendation**

I recommend that the Board issue a decision as follows.

REASONS AND CONSIDERATIONS

Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to ATTACH condition number 2(a), to AMEND condition 2(b) as outlined in the Schedule below and to ATTACH the reason therefor.

SCHEDULE

2(b) A canopy shall be provided solely to the rear / south of the dwelling. This canopy shall be set in a minimum of 2m from the eastern boundary. It shall be no deeper than 3m and shall have a hipped pitched roof completed with concrete tiles and of maximum ridge height of 3.5m.

Mairead Kenny
Planning Inspector

14th January 2020