

An
Bord
Pleanála

Board Direction
BD-012111-23
ABP-312779-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 04/05/2023.

The Board decided to make a split decision, to

Decision (1).

Grant permission for the replacement of an unauthorised landing window with a unopenable, obscured glazed window.

Conditions.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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.

2. The replacement east elevation first floor landing window shall be installed within four months of the date of the order and shall be retained as an unopenable, obscured glazed window on an indefinite basis.

Reason: in the interest of clarity and the residential amenities of adjoining property.

and

Decision (2).

Refuse Permission for retention of the first-floor decking area to the rear, raised side screens and refuse permission for double doors to the decking from the rear of the dwelling.

generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

Decision No. 1

Reasons and Considerations

The proposed development subject to the compliance with the conditions set out below would not seriously injure the amenities of adjoining residential property by reason of undue overlooking and would otherwise be in accordance with the proper planning and sustainable development of the area.

Decision No. 2

Reasons and Considerations.

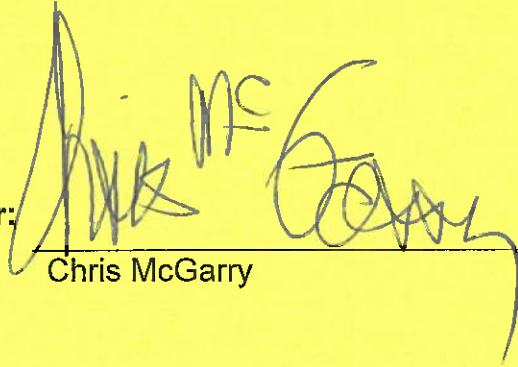
Having regard to the nature and extent of the decking structure for which retention permission is sought, specifically the depth of the decking from the rear wall of the existing dwelling and the consequent adverse impact on the residential amenity of the two rear north-facing bedrooms at ground floor level, it is considered the proposed first floor decking area, would seriously injure the residential amenities of the existing dwelling by reason of poor daylight within the two north facing bedrooms and would therefore result in a substandard form of residential amenity at this

Location. The proposed development for which retention permission is sought would therefore, be contrary to the proper planning and sustainable development of the area.

Note: The Board considered the recommended reason for refusal as set out by the Inspector, in relation to the decking area at first floor level. Furthermore, the Board considered the totality of the documentation on file, including the submissions of the third party and the observer. The Board did not share the opinion of the Inspector that the decking structure at first floor level would adversely affect the residential amenities of adjoining properties, having regard to the incidental residential nature of the use of the decking structure which would be similar to the incidental use of outdoor areas within the curtilage of the existing dwelling and thus would not be likely to give rise to any material issue of noise, and to the extent of the raised side screens (for retention and as proposed by Condition of the planning authority), as these would ensure no material overlooking. The Board agreed with the Inspector that the decking and associated side screens would be unlikely to reduce sunlight access to the rear garden of adjoining properties to level below minimum standards for sunlight to private open space areas having regard to BRE guidance. In this regard, the Board shared the opinion of the planning authority to the effect that the principle of a raised decking at this location would not of itself seriously injure the amenities of adjoining properties by reference to noise, overlooking or overshadowing.

However, the Board shared the view as clearly expressed in the third-party appeal, that the development for which retention permission is sought would lead to poor daylight levels within the north facing bedrooms at the rear of the existing dwelling. This is specifically due to the scale and depth of the decking in its constituted form as set out in the current application and appeal. Given the determination of the Board that the decking would seriously injure the amenities of the existing dwelling as described above and that this element of the development should be refused retention permission, it was considered appropriate that permission be refused for the proposed creation of a double doors opening at first floor level of the existing dwelling.

Board Member:



Chris McGarry

Date: 08/05/2023