



An
Bord
Pleanála

Board Order
ABP-312837-22

Planning and Development Acts 2000 to 2021

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D21A/1047

Appeal by Samatha and Gavin Smith care of David Slattery Conservation Architects Limited of 8 Vergemount, Clonskeagh Road, Dublin against the decision made on the 26th day of January, 2022 by Dún Laoghaire-Rathdown County Council to refuse permission for development comprising retention of unauthorised development on a 0.1162 hectare site within the existing two-storey over basement property. The development consists of construction of a new balcony to the rear of the main house, alterations to and replacement of windows with new doors at ground floor level to the rear of the house, construction of a new external wall to the rear garden between the modern detached Mews dwelling and rear boundary wall, and replacement of a window to the side of the main house, at Churchtown Park House (Protected Structure, RPS number 782), Churchtown Road Upper, Dublin in accordance with the plans and particulars lodged with the said Council.

Decision

GRANT permission for retention of alterations to and replacement of windows with new doors at ground floor level to the rear of the house, construction of a new external wall to the rear garden between the modern detached Mews dwelling and rear boundary wall, and replacement of a window to the side of the main house in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.

REFUSE permission for retention of construction of a new balcony to the rear of the main house based on the reasons and considerations marked (2) under

Reasons and Considerations (1)

Having regard to the 'A' zoning objective pertaining to the site it is considered that, subject to compliance with the conditions set out below, the development to be retained would not seriously injure the residential amenities of the area or of property in the vicinity, would be acceptable from a visual amenity perspective, would not harm the architectural heritage of the main house, a protected structure, or its curtilage and would generally be acceptable in terms of compliance with the criteria stipulated under the Dún Laoghaire-Rathdown County Development Plan 2022 -2028. The retention of these elements of the development would, therefore, be in accordance with the proper planning and sustainable development of the area.


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Conditions

1. The elements of the development that are hereby permitted shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, except 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 and the development shall be retained carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Within six months of the date of this Order, the uPVC sash bathroom window on the western gable elevation shall be replaced with a new conservation timber sash window, to the written satisfaction and agreement of the planning authority.

Reason: In the interest of residential amenity.

3. This retention permission relates solely to:
 - (a) alterations to and the replacement of windows with new door at garden level to the rear of the house
 - (b) construction of a new external wall to the rear garden between the modern detached mews dwelling and the rear boundary wall, and
 - (c) replacement of a window to the side of the main house,

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and does not permit or authorise any use or works carried out within the curtilage of Churchtown Park House which do not have the benefit of planning permission.

Reason: In the interest of clarity and orderly development.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. A pedestrian access gate shall be fitted in the new external wall to the rear garden between the modern detached mews dwelling and the rear boundary wall, to the written satisfaction and agreement of the planning authority.

Reason: To allow the original curtilage of the protected structure to remain unsevered.

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Reasons and Considerations (2)

Having regard to the design of the balcony that includes a solid supporting wall, separated 1.2 metres from and therefore within close proximity to the windows serving habitable rooms of the rear basement level apartment, it is considered that this element of the development that is proposed to be retained would, if permitted, significantly impact on the residential amenities of the current and future occupiers of this rear basement apartment by virtue of resulting in a poor aspect from the habitable room windows directly facing the supporting wall structure in close proximity and a significant reduction in natural light and overshadowing. The impacts are clearly evident on the drawings and photographs submitted with the application. Accordingly, permitting retention of the balcony and supporting wall structure would be contrary to policy objectives contained in the Dún Laoghaire-Rathdown County Development Plan 2022 -2028, specifically the site's zoning objective (Zone A) which seeks, in part, to improve residential amenity while protecting the existing residential amenities. Specifically, the retention of this element of the development would not serve to improve or protect the existing residential amenity for this apartment and the retention of the balcony and wall structure would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission for this element of the development, the Board noted the reference in the Inspector's report to the conservation officer's report on file and also that this type of development has been permitted in previous cases and agreed with the Inspector's assessment of conservation matters in this regard. However, with regard to assessment of residential amenity, the Board did not share the view of the Inspector that the diminution in terms of loss of light to the basement apartment is such that it would not warrant a refusal of retention planning permission.

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The Board had regard to the solid nature of the supporting wall design and the specific location proximate to the south of the habitable rooms serving the rear basement level apartment, and considered that if permitted, this element of the development would lead to a poor aspect from the habitable room windows directly facing the supporting wall structure, and a significant reduction in natural light and overshadowing for current and future occupiers of the basement apartment would result and accordingly would give rise to an unacceptable negative impact on residential amenity for the occupiers of the basement level apartment. The Board considered, notwithstanding the submitted letter of support from current occupiers of the basement apartment, the retention of the balcony and supporting wall structure would be contrary to policy objectives contained in the Dún Laoghaire-Rathdown County Development Plan 2022 -2028, specifically the site's zoning objective (Zone A) which seeks, in part, to improve residential amenity while protecting the existing residential amenities. The Board concluded that the retention of this element of the development would not serve to improve or protect the existing residential amenity for this apartment and the retention of the balcony and wall structure would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia Calleary

Patricia Calleary

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this *12* day of *May* 2023.