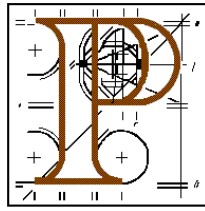


An Bord Pleanála



Inspector's Report

PL06D.245929

DEVELOPMENT:-

Retention of the position as constructed of 2 no. first floor windows, previously granted under ref. D14B/0455 to the south elevation, 1 Dundela Avenue, Sandycove, Co. Dublin.

PLANNING APPLICATION

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Authority Reg. No: D15B/0371

Applicant: Graham Hughes & Mary Browne

Application Type: Permission

Planning Authority Decision: Grant

APPEAL

Appellant: Graham Hughes & Mary Browne

Type of Appeal: 1st-V-Condition

Observer: Maeve O'Donnell

DATE OF SITE INSPECTION: 11th February 2016

Inspector: Colin McBride

1. SITE DESCRIPTION

- 1.1 The appeal site, which has a stated area of 0.0534 hectares, is located to the south east of Dun Laoghaire and north of Glenageary. The site is located on the western side of Dundela Avenue and is occupied by an existing two-storey semi-detached dwelling (no. 1 Dundela Park). Immediately north of the site is no. 3 Dundela Park, which is the other semi-detached dwelling of the pair. To the south is no. 51 Dundela Park, which is a detached two-storey dwelling that backs onto the southern/side boundary of the site. Immediately adjoining the southern boundary of the site is a driveway and vehicular access to the rear of no. 51 Dundela Park. To the west of the site the rear of gardens of no. 43 and 45 Dundela Park adjoins the rear boundary of the site.

2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for the retention of the position as constructed of two first floor windows previously granted under ref no. D14B/0455 to the south elevation of the existing dwelling. The windows permitted had a cill height of 1700mm above the floor level, however the windows constructed and subject to retention have a lower cill height of 1570mm above floor level.

3. LOCAL AND EXTERNAL AUTHORITY REPORTS

- 3.1 (a) Planning Report (23/11/15): It was considered that in order to alleviate concerns regarding overlooking to attach a condition requiring the fitting of opaque/frosted glazing to the windows in question. A grant of permission was recommended subject to the conditions outlined below.

4. DECISION OF THE PLANNING AUTHORITY

- 4.1 Permission granted subject to 3 conditions. Of note are the following conditions....

Condition no. 2: The glazing within the first floor, south facing bedroom no.s 3 & 4 windows shall be manufactured opaque or frosted glass. The application of film to the surface of clear glass is not acceptable.

Reason: In the interests of residential amenities.

5. PLANNING HISTORY

- 5.1 D14B/0455: Permission granted for alterations and extensions of the existing dwelling comprising of internal modifications, demolition of a single-storey extension to the rear, the erection of a two-storey extension to the side of the house along with a single-storey extension to the rear and associated works.

6. PLANNING POLICY

- 6.1 The relevant plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned 'Objective A' with a stated objective "to protect and/or improve residential amenity".

7. GROUNDS OF APPEAL

- 7.1 A first party appeal has been lodged by Studio 3 on behalf of the applicants, Graham Hughes & Mary Browne, the grounds of appeal are as follows...

- The appeal is against condition no. 2 requiring the fitting of obscure/frosted glazing in the two first floor windows on the southern elevation. It is considered that this condition is incorrect and unreasonably restrictive. It is noted that they applicants have permission for clear glazing above a level of 1700mm and that only 130mm of the as constructed windows is below this level with the remaining 370mm above this level. The applicants would be willing to accept a condition requiring partially obscured glazing up to a height of 1700mm above floor level.
- The applicants/appellant's have included photos from inside demonstrating that no overlooking is possible from the windows.
- The applicants/appellants note that the southern elevation of the existing dwelling is 23.78m from the rear elevation of the neighbouring property (51 Dundela Park). It is considered that the windows as constructed do not result in any unacceptable overlooking. It is noted that the 22m distance required under the Development Plan for opposing first floor windows is exceeded in this case.
- It is noted that there are plenty of examples in the locality of clear windows in similar circumstances with examples provided. The applicants/appellants request that the condition is revised to permit clear glass and if not considered acceptable any condition should only require obscure glazing only up to 1700mm above floor level.

8. RESPONSES

8.1 Response by Dun Laoghaire Rathdown County Council

- It is considered that the grounds of appeal do not raise any new matter which would justify a change in attitude to the proposed development.

9. OBSERVATIONS

9.1 An observation has been received from Maeve O 'Donnell, 51 Dundela Park, Sandycove, Co. Dublin.

- The observation outlines concerns regarding the retention of the windows as constructed without opaque glazing with it noted that to do so would have adverse impact on the observer's privacy and be injurious to residential amenity.

10. ASSESSMENT

10.1 At the outset, I wish to point out that following consideration of the documentation on the appeal file and the site location and context, I am satisfied consideration of the proposal on a de novo basis, (that is as if the application had been made to the Board in the first instance), is unwarranted and that it is appropriate to determine the appeal in accordance with the provisions of Section 139 of the Planning and Development Act, 2000 as amended. Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Condition no. 2

10.2 Condition no. 2:

10.2.1 The appeal concerns the retention of two windows on the side elevation of an existing dwelling with the permitted development under ref no. D14B/0455 providing for identical windows in the side elevation however with a cill height of 1700mm above the first floor level instead of the 1570mm at which they were installed. At present the windows have a film to obscure the bottom part of the windows. In granting permission condition no. 2 was applied requiring the windows to be fitted with obscure glazing (no film permitted). This is a first a party appeal against this condition with the appellants of the view that the windows should have clear glazing or if such is not considered acceptable to be partially obscured up to a height of 1700mm above floor level. The only change in the current proposal over that permitted under D14B/0455 is the

level of the windows, which now have a cill height 130mm lower than permitted. The number and dimensions of the windows are the same as previously granted with such the only deviation. Although the cill level is lower than the permitted windows, the windows are still high level windows whose purpose to allow for increased light level and not to allow for an outlook. I would consider that the windows do not afford the opportunity for overlooking due to their cill height, which is still at a high level. The observation by the owner/occupant of no. 51 Dundela Park is noted, however I am of the view that the proposal is not significantly different from the permitted development with the number and dimensions of windows on the southern elevation the same as permitted. I would also consider that the windows in question are still sufficiently high in cill height to prevent overlooking. Notwithstanding such I would also note that the separation distances between the opposing first floor windows is in excess of the 22m standard advocated under the Development Plan. Based on such I am of the view that condition no. 2 requiring obscure glazing is unnecessary to protect residential amenities and the windows as constructed are acceptable in such a context. I would recommend in this instance that condition no. 2 be removed.

DECISION

Having regard to the nature of the conditions 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 REMOVE Condition No 2, and the reasons therefor,

(a) Having regard to the nature of the development proposed, the fact that the proposal does not deviate significantly from the development permitted under ref no. D14B/0455 in regards to the number of windows and dimensions of such, and the windows as constructed are still high level windows that would prevent undue overlooking of the adjoining property; it is considered that the imposition of a requirement for obscure glazing is unwarranted with the proposal satisfactory in the context of residential amenity.

Colin McBride
24th March 2016