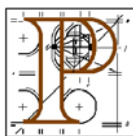


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL 29.N.246136

Development: The development will consist of retention of extension to rear as constructed including increased height of existing roof, increased height of parapet wall to rear, paving area to front, demolition of garages all as built and for planning permission for conversion of existing attic space to form new bedroom, bathroom, walk in wardrobes and study with new dormer window to rear and new velux windows to front and side roofs of existing bungalow.

Planning Application

Planning Authority: Dublin City Council
Planning Authority Reg. Ref.: 4013/15
Applicant: Mr. & Mrs. Tom O'Neill
Planning Authority Decision: Grant permission & retention permission with conditions

Planning Appeal

Appellant(s): F. Kelly & A. Traynor
Type of Appeal: Third Party – V - Grant
Date of Site Inspection: 28th April 2016

Inspector: Tom Rabbette

1.0 SITE LOCATION AND DESCRIPTION

The application site is located along a mature residential road known as St. Margaret's Avenue in Kilbarrack in north-east Dublin. The northern half of this residential road contains, for the most part, detached bungalows estimated to date from the 1950s/1960s, many would appear to have been renovated in recent times and some appear to have attic accommodation added. The southern part of the road contains later semi-detached two-storey dwellings. The application site is located within a row of detached bungalows, the dwelling on the site is a detached bungalow. The southern side wall of this bungalow is built right up to the southern site boundary with the adjacent property, it is an unusual arrangement that appears to apply to all of the contemporaneous bungalows along this section of the road. The dwelling on the site is served by a front garden and a large generous rear garden.

2.0 PROPOSED DEVELOPMENT

This is an application for both planning permission and retention planning permission.

The retention permission relates to the retention of an extension to the rear of the dwelling. The development description seeks the retention for the extension as built and then goes on to focus on four elements in particular. It seeks the retention of the increase to the roof height by 500 mm, the retention of the increased height by 900 mm of a parapet wall located on the southern side of the extension, retention of paving to the front of the dwelling, and the retention of demolition of domestic garages.

The application for planning permission relates to the attic space in the dwelling. The applicants are seeking permission to convert the attic space to form a new bedroom, bathroom, walk-in wardrobes and a study. It includes for a dormer window to the rear of the dwelling and 7 rooflights to the front and side roofs.

3.0 PLANNING HISTORY

2383/15: Permission refused for the following development: 'conversion of existing bungalow attic space to form new bedroom, bathroom, walk in wardrobes and study with new velux windows to each side and internal alterations all to existing bungalow.'

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

Planner's Report dated 15/01/16:

- Permission recommended subject to conditions.

Engineering Department Drainage Division Report dated 15/12/15:

- No objection subject to conditions.

Objection: there is an objection of file from the occupants of a neighbouring property to the south of the site, those objectors are now the third party appellants. Issues raised in the objection include: development at the shared boundary wall; height of the parapet wall; visual impact of the parapet wall; dormer window side glass panes; changes to a ground floor side window; rooflights, and CCTV cameras.

4.2 Planning Authority Decision

By Order dated 15/01/16 the planning authority decided to grant permission and retention permission subject to 8 conditions. The majority of the conditions can be considered standard. However, I would draw the Board's attention to Condition No. 3 which reads as follows:

"3. The development shall be revised as follows: a) The front roof rooflight omitted. b) The rear southern side parapet wall shall be cladded with an agreed finish from at least eaves level and upwards so as to blend in with the roof finish, with the wall reduced in height as required. c) All first floor side windows shall be permanently fitted with opaque glazing at least 1.8m above finished floor level. d) The side panels of the rear dormer window shall be fitted with opaque glazing. Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings:-

Reason: In the interests of residential and visual amenity."

5.0 GROUNDS OF APPEAL

The contents of the third party grounds of appeal can be summarised as follows:

- Refers to planning history ref: 2383/15 and enforcement file ref. E0145/15.
- The appellants refer to Condition 3(b) of the p.a. decision relating to cladding to a side parapet wall.
- The side parapet wall is incongruous with the building style of the rest of the property.
- It negatively impacts on the value of the appellants' property.

- Covering an excessively high wall in cladding as proposed is without precedent in the area.
- There is no plausible justification for building the side wall of the house on the boundary, which is the cause of its excessive height and imposing nature.
- There is no precedent for the height of this parapet wall in the area.
- A grant would create a precedent.
- A distance of 1 m to 1.5 m from the boundary is appropriate for extensions on these bungalows.
- Appellants suggest obscure glazing to the side window and the window should open inwards and not out onto the appellants' property.
- Condition sought in relation to field of vision away from the appellants' property of the CCTV cameras on the application site

6.0 RESPONSES TO GROUNDS OF APPEAL

6.1 Planning Authority response

There is no response from the p.a. on file at time of writing.

6.2 First party response

The contents of the first party's response to the grounds of appeal can be summarised as follows:

- The p.a. Planning Officer dealt thoroughly with the application and the concerns of the appellants.
- The removal of the rooflight to the front of the dwelling by way of condition is unnecessary given the number of roof lights in other adjacent properties.
- There is little reason to colour or tile the parapet wall.
- These houses have been built with roof overhangs unto adjoining properties and ground floor windows oversailing adjoining properties.
- The appellants were unwilling to allow the roof overhang continue into the extension, hence, the need for the wall to contain all of the guttering and roof within the applicants' property.
- There is nothing in the exempted regulations that the current application is relying on.
- The parapet wall design solution was suboptimal but was the only design solution available as the appellants refused to allow the extended roof overhang their property, as is their right.
- The applicants have no objection to finishing the parapet wall in any manner thought appropriate by the Board.
- There is little need to treat this wall as it is in-keeping with the general character of the house.

- The single and dormer extensions are very much in-keeping with the subordinate philosophy of the p.a. and the character and pattern of development already in the area.
- The side panels in the dormer were always shown as solid walls, the applicants have no objection to a condition in this regard.
- The applicants are not proposing any changes to the ground floor window in the shared boundary wall, this is outside the remit of the Board to now change its characteristics, it is a bedroom window and an escape window is required.
- The matter of conditioning the orientation of future CCTV when it is not included in the statutory notices, as already alluded to in the p.a. report, would be considered *ultra vires*.
- The dormer extension has been carefully designed to minimise any loss of character of the dwelling while at the same time minimise overlooking of adjoining properties.
- This is a small well-designed extension to a detached dormer bungalow.
- The Board is requested to uphold the p.a. decision.

7.0 POLICY CONTEXT

The operative plan for the area is the Dublin City Development Plan 2011-2017. The site is located in an area that is zoned 'Z1 – to protect, provide and improve residential amenities. Other directly relevant sections in the CDP are:

S.15.10.1 Sustainable Residential Neighbourhoods – Zone Z1
 S.17.9.8 Extensions and Alterations to Dwellings
 Appendix 25 Guidelines for Residential Extensions

(Copies of the above are in the attached appendix for ease of reference for the Board.)

8.0 ASSESSMENT

I have examined all the plans, particulars and documentation on file. I have carried out a site inspection. I have had regard to relevant provisions of the statutory development plan for the area. In my opinion the main issues arising are:

- Background to the application
- Parapet Wall
- Conversion of attic space
- Ground Floor Window
- CCTV Cameras
- Appropriate Assessment

Background to the application

It appears the applicants built an extension to the rear of a 1950s bungalow on the site but believed the extension enjoyed the benefit of being exempted development pursuant to the Planning & Development Regulations. An application was subsequently made to convert the existing bungalow attic space to form a new bedroom, bathroom, walk-in wardrobe and study, ref: 2383/15. That application was refused permission for one reason but incorporated two issues, one element related to the residential amenity standard of the proposed habitable space, the other issue related to the attic conversion being housed within “an unauthorised extended roof”. It appears the extended roof related to the extension to the rear that the applicants believed to be exempted development. There is reference to an enforcement file (ref: Eo145/15) in the p.a. Planner’s Report. It appears that to regularise the matter, and address the reason for refusal in 2383/15, the applicants made the current application which is divided into a retention permission relating to the extension and the changes to the roof (and other matters), and a planning permission application relating to the attic conversion.

Parapet Wall

The wording of the public notices are somewhat confusing in relation to reference to retention of ‘increased height of parapet wall to rear’. The parapet wall forms an integral part of the extension which is subject of the retention, the entire wall is subject of the retention and not just an ‘increased height’. However, I am satisfied that the appellants fully appreciate the nature and extent of the proposed development.

The original 1950s bungalow on the site has its southern wall right up against the boundary with the appellants’ property. However, it appears the southern sidewall of the dwelling is within the application site boundary, this wall is not on the boundary but rather just within the boundary. Many other contemporaneous bungalows along this row have a similar arrangement. It appears this has been a cause of conflict in the area as it results in an eaves detail that overhangs neighbouring properties and also results in a window in the southern sidewall obtaining daylight from the adjoining property to the south with its openings also opening outwards onto the neighbouring property.

Based on information on file it appears that the appellants indicated to the applicants that they did not want the overhanging eaves detail continued into the extension to the rear. As a result the applicants built the extension along the boundary with a parapet wall detail instead so as to specifically avoid any overhanging of the appellants’ property.

The appellants now object to this parapet wall on the southern side of the extension. The objection relates to what they consider to be its excessive height and imposing nature. The wall is 3.7 m high measured from ground

level to the top of the parapet and it is 4.7 m long. They hold that there is ample space on the application site to provide the extension without the need to build right up against the boundary. They cite, *inter alia*, the Planning & Development Regulations relating to limitations on exempted development to justify their request that the wall be set back from the boundary. They believe the wall should be set back between 1 m and 1.5 m from the boundary with their property.

In terms of amenity impact on the appellants' property there are a number of matters to be addressed. Firstly, matters pertaining to potential overshadowing, access to daylight and sunlight need to be considered. In that regard I note that the wall is to the north-east of the appellants' property, therefore there is little impact by way of overshadowing, access to daylight or access to sunlight. The residential amenity of the appellants' property will not be adversely impacted upon in relation to these matters. In terms of views and aspect, there are no protected views from the appellants' property north across the applicants' property. I would accept, based on 'before and after photographs' on file submitted by the appellants to the p.a. (see page 6 of the submission to the p.a. received on the 15/12/15) that the view has been altered and there is now a greater sense of enclosure adjacent this wall on the appellants' side of the property, but that is not grounds for refusal, in my opinion. The appellants' dwelling does not have any windows to main habitable rooms directly facing this wall, the outlook to the rear from the appellants' dwelling is south-east towards its back garden and not north-east towards the applicants' property and the subject wall. There was a greater sense of openness looking north-east prior to the construction of the extension but that, in part, was as a result of the low level boundary wall that existed previously. In terms of aspect and outlook from the appellants' property, I do not consider the development warrants refusal. In terms of visual amenity, I do not consider that the wall constitutes a significant visual disamenity. Furthermore, the p.a. condition no. 3 (b) is unwarranted in my opinion. The p.a. is seeking that the wall be clad from the eaves level upwards, I am unconvinced that this would benefit the visual appearance of the wall, on the contrary, I consider it would look rather odd. Likewise I would caution against lowering the height of this wall as suggested in condition 3 (b). I draw the Board's attention to the rear elevation of the extension and also to photographs on file indicating the height of this parapet from the applicants' side of the boundary. The top of the parapet must be above the level of the eaves, effectively the existing eaves level is dictating the height of the parapet, there is little scope to reduce this height, either it's a parapet detail as proposed, or it's an overhanging eaves detail as per the historic situation (or the entire extension is set back from the shared boundary).

Having regard to the forgoing I do not consider that the parapet wall is adversely impacting on the residential or visual amenity of the appellants' property. I therefore do not consider that refusal is warranted in relation to

this wall and, furthermore, I would not recommend that the upper section be clad or lowered as sought by the p.a. through condition.

Conversion of attic space

This aspect of the application is for planning permission and not retention permission although it should be noted that the retention permission does relate to increasing the height of the ridge over the original dwelling by some 500 mm.

The attic conversion will accommodate a new bedroom to the rear partially over the ground floor extension that is subject of the retention application. (Should the Board decide that the retention permission for the ground floor extension should be refused, they may wish to consider the implications this would have for the permission sought for the attic conversion.) The new bedroom in the attic will have a dormer window. There are a number of precedents for dormer windows to the rear of these dwellings in this row, including at the appellants' dwelling. The attic conversion is also to include a toilet, 2 walk-in wardrobes, a study and landing area. The attic conversion includes for 5 of the 6 proposed rooflights, the 6th rooflight is actually providing light to a ground floor bathroom and not to the attic space.

There are variations in roof heights, finishes and designs along this road. I do not consider that the increase in roof height adversely impacts on the visual amenity of the area, nor do I consider that the proposed dormer window adversely impacts on neighbouring residential amenity or the visual amenity of the area. The appellants raised concerns about the 'side glass panes' in the dormer window at application stage to the p.a. Condition 3 (d) of the p.a. decision required the side panels of the rear dormer window to be fitted with opaque glazing. There are no side panes proposed in this dormer as per the drawings on file and the applicants further confirmed in their submission to the Board that there are no side panes proposed here. Condition no. 3 (d) is therefore unwarranted. Condition no. 3 (a) is also unwarranted in my opinion, this condition required that the proposed rooflight to the front of the dwelling be omitted. This rooflight provides light to the landing area. There are a number of rooflights to the front of other dwellings along this road, including at the appellants' dwelling. I would however recommend that the two rooflights serving the new bedroom in the attic space be fitted with obscure glazing to obviate overlooking of neighbouring properties. The other rooflights are located further forward (north-west) along the roof and do not easily facilitate the overlooking of the private open space of adjacent properties.

I would recommend that permission be granted for the conversion of the attic space as proposed.

Ground Floor Window

There is a window to a bedroom in the southern side wall of the applicants' dwelling. As this side wall is located along the boundary with the appellants' property, the window has access to light from that adjoining property and also has side hung and top hung openings that open out into the appellants' property. The appellants request that obscure glazing be applied to this window and that the window should open inwards to avoid collision on the appellants' side of the boundary.

The window is not the subject of this application. The applicants are not seeking changes to this window on foot of this application. Its location is problematic but historic, it appears this arrangement is repeated at other locations in this residential area. As the window is not subject of the application I would advise the Board not to make it subject of their Order (either in the Decision or in any conditions that may apply).

CCTV Cameras

The appellants refer to four CCTV cameras on the applicants' property. The appellants request a condition regarding the CCTV cameras to the rear of the property, they request that the cameras do not cover their property.

There are no CCTV cameras indicated on the submitted plans and particulars. There is no mention of CCTV cameras in the development description as per the public notices.

CCTV cameras are not subject of the application. It would be *ultra vires* the powers of the Board to make a determination in relation to these, in my opinion. Planning enforcement is a matter for the planning authority in the first instance. These may be matters to be addressed under other legal codes, but at this juncture it is not a matter for the Board as the cameras are not subject of the application.

Appropriate Assessment:

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise

Other issues:

The ground floor extension, which accommodates an enlarged dining/kitchen area, improves the residential amenity of the existing dwelling on the site and does not adversely impact on the residential amenity of neighbouring properties, in my opinion, I would therefore recommend that retention be

granted. Retention should also be granted for the paved area to the front of the dwelling and demolition of the garages to facilitate the extension.

9.0 CONCLUSIONS AND RECOMMENDATION

Having regard to the foregoing assessment I would recommend that retention planning permission be granted for the extension to the rear as constructed and that planning permission for the conversion of the attic space be granted subject to the conditions as indicated hereunder.

REASONS AND CONSIDERATIONS

Having regard to the residential zoning objective for the area and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out 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.

Reason: In the interest of clarity.

2. The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

3. The two no. rooflights serving the new bedroom in the attic conversion shall be fitted with obscure glazing.

Reason: To prevent overlooking of the private open space to the rear of the adjacent properties.

4. Water supply and drainage arrangements, including the 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. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Tom Rabbette
Senior Planning Inspector
28th April 2016