

An Bord Pleanála



Inspector's Report

Appeal Reference No: PL06F.246212

Development: Construction of a hobby room and water tank room as a first floor rear extension at Rokeby, 5 Dunbo Hill, Howth, Co. Dublin.

Planning Application

Planning Authority: Fingal County Council

Planning Authority Reg. Ref.: F15A/0562

Applicant: Eugene and Nora Fox

Planning Authority Decision: Refuse

Planning Appeal

Appellant(s): Eugene and Nora Fox

Type of Appeal: First Party

Observers:
1. Michael Hilliard and Pamela Adderley Hilliard
2. Paul Lambert
3. Monica Creenane

Date of Site Inspection: 21.04.2016

Inspector: Fiona Fair

1.0 SITE LOCATION AND DESCRIPTION

The appeal site is located within the built up area of Howth, close to the harbour and the village. It has a stated area of 0.0383ha and comprises a part two storey / part three storey mid terrace, double bay fronted dwelling. The dwelling is located within a Victorian terrace of period dwellings, Dunbo Terrace, which vary in design but are in the main two storey to the front and three storey to the rear.

The site fronts onto Dunbo Hill which is situated in an elevated position relative to Church Street to its north. The front of the dwelling overlooks the Harbour to the north and Dunbo Hill slopes from east to west. The site is elevated relative to the adjoining land to its south / rear. On foot of PL06F. 230529 / Reg. Ref. 08A/0673 as amended by PL06F.244502 / F14A/0450 permission was granted for 4 large detached dwellings, directly to the rear of the subject appeal site. These dwellings have just recently been constructed and some are now occupied.

The rear garden of the appeal site is bounded by high stone walls (well in excess of 2m in height) to all boundaries. A single storey extension (4m in height with mono-pitch roof) comprising a kitchen extension, bathroom and shed, extends from the rear of the dwelling and runs along the western boundary. A smaller flat roofed garden shed is located to the eastern boundary. Due to the high boundary walls the rear garden is fully contained and there is no direct view into adjoining gardens from the rear of the property.

2.0 PROPOSED DEVELOPMENT

Planning Permission is sought for construction of:

- A hobby room of 28.63 sq. m. and
- A water tank room of 3.77 sq. m.

As a first floor rear extension to a mid-terraced 2 storey house

The GFA of the existing building is stated as 254.43 sq. m. The GFA of the proposed works is stated as 32.4 sq. m

3.0 PLANNING HISTORY

Reg. Ref. F15A/0173 Permission Refused for the construction of a hobby room, 29.73 sq. m, Comprising a first floor rear extension to mid terrace 2 storey house by reason of significant overlooking, overshadowing and loss of outlook to adjoining properties and injury to residential amenity of the area.

Adjoining Dwelling to the West, 4A Dunbo Hill

Reg. Ref. F15A/0402 Permission sought for change of use of house to two independent dwelling units (new 4A and 4B), 1st floor extension to new 4A, ground floor extension to front and rear of 4B and all associated works at Dunbo Lodge, Dunbo Hill, Howth Hill, Co. Dublin. The planning authority issued a notification of decision to grant permission, however, this is currently under appeal PL06F.246182

Reg. Ref. F14A/0474 Permission Refused, January 2015, for i) Change of use of the existing two storey dwelling to two independent dwellings (new 4A and 4B); (ii) second floor extensions to the two new units of 24 sq.m. (new 4a) and 39 sq.m. (4B); (iii) balcony (8 sq.m.) at second floor level to rear of 4b which will be screened with 1.6 metre high translucent screen; (iv) ground floor extension to front of new 4A (19 sq.m.) and to rear of 4B (7 sq.m.); First floor extension to rear of new 4A (14 sq.m.) and erection of 1.6 metre high translucent screen around existing balcony; (vi) Two car parking spaces each to front of new 4A and 4B; and (vii) all site development works including paving and landscaping. Reasons for Refusal are summarised as follows:

1. Overdevelopment by virtue of the under provision of private amenity space, substandard provision of storage and bedroom space.
2. Unacceptable degree of overlooking of the adjacent dwellings to the south, east and west of the application property and a consequent loss in privacy and diminution of residential amenity.

3. The proposed development would be inconsistent and visually incongruous with the immediate vicinity and would be seriously injurious to the visual amenities of the area. The proposed development would therefore adversely affect an architectural conservation area
4. Set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the residential amenities of the area, would seriously injure the amenities and depreciate the value of property in the vicinity.

Adjoining Site to the South / Rear

On foot of PL06F. 230529 / Reg. Ref. 08A/0673 as amended by PL06F.244502 / F14A/0450 permission was granted for 4 large detached dwellings currently under construction.

PL06F.241774 / Reg. Ref. F13A/0003 Permission refused on appeal for 4 no. replacement dwellings.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

The Planners report reflects the draft decision to refuse planning permission. It is considered that the proposed development is overbearing in its scale resulting in loss of outlook to the neighbouring property to the west. It is considered that windows on the eastern elevation would lead to a perception of overlooking to the detriment of the occupiers of no. 6 to the east.

Objections/Submissions

Submissions were received by the planning authority and the issues raised are summarised as follows:

- External staircase would result in overlooking and should be enclosed within the building
- No guarantee that the windows in the eastern elevation will be obscure glazed and therefore result in overlooking
- The window in the rear elevation will give rise to overlooking
- The proposal would give rise to overshadowing

Planning Authority Decision

Fingal County Council Refused Planning Permission for 1 no. Reason which states: *‘Having regard to the size, scale and design of the proposed extension, it is considered that the proposed development would result in significant overlooking and loss of outlook for adjoining properties and would be injurious to the residential amenity of adjoining properties. The proposal is therefore considered to be contrary to the proper planning and sustainable development of the area’.*

5.0 GROUNDS OF APPEAL

A first party appeal has been lodged by Eugene and Nora Fox. The grounds of appeal are summarised as follows:

- A revised Drawing – Drg. No. 1362-A2 (revision d) (2 copies) has been submitted with the appeal. It proposes the following amendments:
- Replacement of external steps with internal staircase. This allows for omission of door and window at end (south) elevation. With the resulting provision of single hobby room, this alteration also allows for amendments to side fenestration, namely, reduction of 4 fixed obscure windows to 3. This amendment addresses the overlooking issue.
- Reduction of bulk by means of adjusting height by 250mm. This is made up by reducing the ground floor kitchen ceiling below from 2250 to 2100 and the

reduction of hobby room ceiling by 100mm. This amendment addresses the loss of outlook issue.

- The depth of the extension is actually 8.8m, though its end is 11.2m from the main house.
- Perception of overlooking differs from the reality of overlooking
- The proposed development, as revised by the amended Drg. submitted to the Board, offers no new overlooking towards neighbouring properties.
- The applicants garden is overlooked by no. 6 Dunbo Hill to the east
- The use of the structure is for a permanent model railway installation for Eugene Fox who is a retired professional railway engineer.
- The function has informed the extension design which is modelled on a railway carriage with its vaulted roof and rhythm of (obscured) side windows. The vaulted roof was also provided at the outset to minimise the height profile of the building when compared with a simpler (and cheaper) double pitched roof.
- The amendments proposed overcome the issue of overlooking and loss of outlook from adjacent properties.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

Response is summarised as follows:

- The proposed development remains excessive in scale.
- Acknowledge that concerns regarding overlooking from the external staircase and associated fenestration in the rear elevation have been addressed.
- The p.a. remains of the view that given the proximity of the extension to the boundary with no. 6 Dunbo Hill a perception of overlooking from the windows in the side elevation will remain to the detriment of the amenity of the occupiers of No. 6.

- Acknowledge the reduction in height, however, it remains the opinion of the p.a. that the depth of the extension is excessive and would result in loss of outlook to the neighbouring property to the west.
- Proposal remains injurious to the residential amenity of adjoining properties.

6.2 Observations on grounds of appeal

An Observation was received from Michael Hilliard and Pamela Adderley Hilliard Dunbo Lodge, 4A Dunbo Hill, Howth. It is summarised as follows:

- External staircase would result in overlooking and should be enclosed within the building
- No window should be permitted in the rear elevation as it would give rise to overlooking

An Observation was received from P. Lambert 9 Dunbo Hill, Howth. It is summarised as follows:

- There is an attempt on the drawings to retain an outdoor standing and balcony area
- There is no need for an external standing or balcony area
- The application was correctly refused and the amended appeal remains conflicted and deficient
- The proposal would set a negative precedent
- Planning permission has not been granted for a balcony in this area to date
- No guarantee that the windows in the eastern elevation will be obscure glazed and therefore the proposal would result in overlooking
- There is no need for the hobby room. No reason why a train set cannot fit into one of the many rooms of the host dwelling
- Proposal is overdevelopment of the site and would give rise to a non-essential / non-living space type development
- Devalue residential amenity enjoyed by neighbouring properties
 - Overlooking
 - Overshadowing

- Loss of outlook
- Injury to adjoining properties privacy and residential amenity
- Excessive scale, size, bulk and depth
- Perception of overlooking
- The appeal does not address the instant refusal. It only refers to the first refusal.
- Concern that window may be converted to a doorway facilitating an external standing area
- There is insufficient information on the drawings to grant planning permission

An Observation was received from Monica Creenane 6 Dunbo Hill, Howth. It is summarised as follows:

- Loss of privacy, outlook, overshadowing and devaluation of property
- A large space to the southern end of this very little used garden would be a better location for the proposed development and would still leave a large grassy area, not overlooked, as private open space.
- There is minimal overlooking from no. 6 to the rear garden of the appeal site (no. 5)
- Rokeby is a very large house and the hobby room could be housed within the existing dwelling.
- Windows on the eastern side of the development facing no. 6 are a cause of concern – infringe upon privacy.
- Proposal will give rise to overlooking of No. 6's kitchen, first floor bedroom / bathroom window and rear garden
- Natural light is key to a hobby. Query whether 3 obscure windows would provide enough natural light for a hobby room. Concern, that for this reason, the windows would not be obscure as proposed.
- Reduction in floor to ceiling height proposed is minuscule and will not reduce impact of loss of outlook and overshadowing.
- Unclear how the water tank room will be accessed
- Concern that window in the main house may be amended to a doorway
- Four Drawings and Photograph attached.

7.0 POLICY CONTEXT

The Fingal County Development Plan 2011 – 2017 (CDP) shows the appeal site as being subject to two zoning objectives. The northern portion of the site is zoned TC, *‘Protect and enhance the special physical and social character of town and district centres and provide and / or improve urban facilities.’* The southern part of the site (garden) is zoned RS, i.e. *“Provide for residential development and protect and improve residential amenity.”*

The application site lies within the Howth Historic Core ACA and the Howth Urban Centre Strategy / Urban Area. The appeal site is not located within the SAAO or its buffer.

The following sections of the County Development Plan are of relevance:

Objective AH17 – Ensure that any new development or alteration of a building within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the proposed design, incl. scale, mass, height, proportions, density, layout, materials, plot ratio and building lines.

8.0 ASSESSMENT

I have read through the file documentation, the relevant provisions of the County Development Plan and have carried out a site inspection. In my judgement the principle factors for consideration in this appeal relate to:

8.1 Principle of the Proposed Development

8.2 Impact Upon Visual Amenity

8.3 Impact Upon Residential Amenity

8.4 Other Issues

8.1 Principle of the Proposed Development

The northern portion of the appeal site is zoned 'TC' *"Protect and enhance the special physical and social character of town and district centres and provide and / or improve urban facilities"*. The southern part of the site is zoned RS, i.e. *"Provide for residential development and protect and improve residential amenity"* in the Fingal County Development Plan 2011 – 2017, therefore, the principle of the proposed development i.e. hobby room, for a model railway installation, a use which is ancillary to the host dwelling, is considered acceptable.

In this regard in order to protect the amenities of property in the vicinity, if planning permission is forthcoming from the Board, I recommend that a condition be attached which restricts the use of the structure to 'hobby room for model railway installation', as specified in the lodged documentation. Also, that a condition be attached which restricts sale, letting or otherwise transferring or conveyance of the 'hobby room', save as part of the dwelling.

8.2 Impact Upon Visual Amenity

Revised Drawings: The First Party in their appeal requests that the Board consider a slightly revised design which seeks to overcome issues of overlooking, overbearing

and loss of outlook for adjoining properties raised by both third parties and the planning authority. The revised design put forward by the applicant is as follows:

- Replacement of external steps with internal staircase.
- Omission of door and window at end (south) elevation.
- Reduction of 4 fixed obscure high level windows to 3 on the eastern elevation
- Reduction in the ground floor kitchen ceiling height from 2250 to 2100 and the reduction of hobby room ceiling by 100mm. Total reduction 250mm.

A revised drawing – Drg. No. 1362-A2 (revision d) has been submitted with the appeal. I note the first party have not submitted revised public notices. Regard being had to Section 132(1) of the Planning and Development Acts 2000-2006 it is my opinion the revisions put forward by the applicant are not too significant a deviation from that considered by Fingal County Council, regard being had to proposed height, design, scale and nature of the proposal. I am of the opinion that the revision is such that revised public notices are not required.

Inspectors Note: The no. of high level obscure windows indicated on the floor plan at 1st floor is 4, however, the no. of windows indicated on the east elevation is 3, on Revised Drawing No. 1362-A2 (revision d) submitted to the Board with the Appeal. The applicant has indicated, in documentation submitted, that the actual number of high level obscure windows proposed is 3. I consider this error can easily be resolved by way of condition and is not a material issue. Given, I consider, that the amendments to the design are minor in nature it is my intention to have cognisance to same in my assessment of this planning application.

The proposed development involves the construction of a first floor extension, above an existing single storey extension (kitchen, bathroom and shed), to the rear of a mid-terrace dwelling. The proposed extension (hobby room and water tank room) would have a height of approx. 4.8m, a depth of 11.2m and a width of 4m with vaulted roof (over the hobby room) and flat roof (4.5m in height, over the water tank room). A fiberglass roof finish is proposed. I note that the height of the existing single

storey lean-to roof, over the existing extension, is approx. 4m at its apex. The existing single storey extension is constructed right up against the western party boundary wall (with No. 4A Dunbo Hill). The party boundary has a height which equals the height of the existing lean to roof.

Having regard to all of the information before me, and having conducted a visit of the site and its environs, I am of the opinion that the scale, mass and design of proposed development is acceptable in the context of the existing and permitted development. This is a large established rear garden which is well contained both physically with high walls and visually. There are currently no views into / from adjoining rear gardens from ground level. I do not agree with the planning authority that the scale of the proposed extension is excessive in its context. I do not consider that if permitted a first floor hobby room, ancillary to the host dwelling, of the scale and design proposed would set a negative precedent at this location or generally to the rear of terraced dwellings. The appeal site is inimitable and each planning application is accessed on a case by case basis. I consider that the design and height of the proposed development, together with the size of the site and screening is such that the proposal would not be visually incongruous or diminish visual amenity so as to warrant a refusal of permission in this regard.

I note that planning permission is currently sought for subdivision of the adjoining dwelling to the west (Dunbo Lodge) and for construction of a single storey extension to its rear along the party boundary with the subject appeal site. PL06F.246182 refers, no decision to date.

Cognisance is had to the location of the appeal site within the Howth ACA. It is my opinion that given the extension would not be visible from the street frontage or wider area generally, it will not detract from the character of the terrace or the character of the ACA.

8.3 Impact Upon Residential Amenity

Third parties have raised concerns with respect to overlooking and perceived overlooking, overshadowing, overbearing and loss of outlook.

It is submitted by the applicant that the amendments proposed incl. replacement of external steps with internal staircase and omission of a door and window to the proposed south elevation, reduction in the ridge height of the structure by 250mm and reduction of proposed 4 fixed obscure windows to 3 on the eastern elevation, would overcome the issue of overlooking and loss of outlook from adjacent properties.

The planning authority refused planning permission citing '*the size, scale and design of the proposed extension ...would result in significant overlooking and loss of outlook for adjoining properties and would be injurious to the residential amenity of adjoining properties...*' The planning authority response to the appeal acknowledges that concerns regarding overlooking from the external staircase and omission of a south facing window has been resolved.

The proposed extension runs north south along the western boundary and high level obscure windows, which face east, are approx. 8 m from the eastern boundary, with no. 6 Dunbo Hill. The issue of directly opposing first floor windows does not arise. Given the proposed use of the first floor extension as a hobby room for model railway installation, the offset to the party boundary with No. 6 Dunbo Hill and the proposal for high level obscure windows, I am of the opinion that the proposed development would not give rise to an unacceptable level of overlooking.

This is an urban setting, the appeal site is in the main zoned town centre, the appeal property and the property of third parties to the appeal form part of a terrace of dwelling which are two / three storey to the rear and have above ground level windows with southern aspects. Given the foregoing and having regard to layout and

design of the permitted development on the appeal site I do not consider that a grant of permission in this instance would result in overlooking / perceived overlooking as to warrant refusal of permission, or as to negatively impact on the existing levels of privacy afforded to the adjacent property.

With respect to the matter of overbearing and loss of outlook, as set out above in the preceding section of this report, I am of the opinion that the scale, height and mass of proposed development is acceptable in the context of the existing and permitted development. I consider it of significance that the site has the benefit of high boundary walls and it is notable that the western party boundary wall matches the apex height of the existing lean to roof to the single storey rear extension (kitchen, bathroom and shed). The curved roof of the proposed extension would rise by only 545 mm approx. above the existing height. Therefore, in my opinion the increase in height of the ridge at the western party boundary would not give rise to significant overbearing impact, to No. 4 Dunbo Lodge) such as to warrant a refusal of planning permission. Regard is had to the existing sun room extension to the rear of Dunbo Lodge and alterations sought on the site to the west (PL06F.246182).

While third parties have raised a concern with respect to overshadowing, this has not been cited as a reason for refusal by the planning authority. A shadow analysis has been submitted. It has been demonstrated that no adverse impact upon any adjoining property would arise. Given the location and height of the proposed extension, the appeal sites orientation and the size of the rear garden I am of the opinion that no material overshadowing would arise.

I consider that the mass, scale and height of the proposed development, together with the separation distances involved, proposal for obscure glazing, internalisation of the staircase and the orientation of the site is such that the impacts on amenity would not be so great as to warrant a refusal of permission. I do not consider that a grant of permission, with conditions, would detrimentally impact on the residential

amenity of the area. I have no information before me to believe that the proposed development if permitted would lead to the devaluation of properties in the vicinity.

8.4 Other Issues:

Appropriate Assessment (AA)

The appeal site is not within or adjoining any Natura 2000 site.

Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site, 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.

Balcony

Third parties to the appeal have raised concern that there is an attempt to retain an outdoor standing and balcony area. I see no evidence to indicate that the applicants propose to use any part of the structure as a balcony. The revised drawing 1362/A2 Revision D clearly indicates the access and staircase internalised, no doors, to first floor flat roof area are proposed. Alteration of first floor southerly facing rear window on the main dwelling to a doorway would require a grant of planning permission. Also I note the legal requirement to comply with Building Regulations with respect to safety railings. No safety railing are proposed.

I recommend, that should the Board agree that permission be forthcoming for the proposed development, that a condition be attached, which states, no access shall be provided from the first floor of the dwelling or hobby room to any flat roof of the dwelling and that no part of the roof shall be utilised as a balcony.

Compliance with Conditions

Third parties to the appeal have raised concern that there is no guarantee that the windows in the eastern elevation will be or remain obscure glazed and therefore the proposal would result in overlooking. I am of the opinion that a condition requiring that the 3 number proposed windows, in the eastern elevation, at first floor level, be obscure glazed, in accordance with the Revised Drawing 1362/A2 Revision D, is a reasonable and standard condition for similar type development and is wholly enforceable. I recommend that should the Board agree that permission be forthcoming, that this condition or a similar condition be attached, to any decision to grant planning permission.

Note: Enforcement proceedings and investigation of unauthorised works is within the remit of the planning authority and not An Bord Pleanála.

9.0 RECOMMENDATION

I have read the submissions on file, visited the site, considered the provisions of the Development Plan and taken into account all other relevant matters. I recommend that planning permission be Granted subject to the conditions set out below.

10.0 REASONS AND CONSIDERATIONS

Having regard to the land-use zoning of the site 'residential' and 'town centre' and the existing pattern of development in the vicinity it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would not negatively impact on the character of the Architectural Conservation Area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to An Bord Pleanála on the 26th February 2015, 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 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 3 number (only) high level, first floor, windows on the eastern elevation shall be glazed with obscure glass.

Reason: To prevent overlooking of adjoining residential property

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to use solely as a 'hobby room for model railway installation', as specified in the lodged documentation, unless otherwise authorised by a prior grant of planning permission.

Reason: To protect the amenities of property in the vicinity.

4. The proposed 'hobby room' extension shall be used solely for that purpose, and shall shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To protect the amenities of property in the vicinity.

5. No access shall be provided from the first floor of the dwelling or hobby room to any external flat roof of the structure and no part of the roof shall be utilised as a balcony.

Reason: To protect the amenities of property in the vicinity.

6. 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.

7. That all necessary measures be taken by the contractor, including the provision of wheel wash facilities, to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

8. The external finishes of the proposed development shall be as indicated on the plans and drawings submitted.

Reason: In the interest of the visual amenity.

9. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity

Fiona Fair
Planning Inspector
27.04.2016