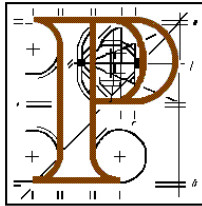


An Bord Pleanála



Inspector's Report

PL27.246235

DEVELOPMENT:- Attic conversion, 14 Rectory Way, Bray, Co. Wicklow.

PLANNING APPLICATION

Planning Authority: Wicklow County Council

Planning Authority Reg. No: 15/1160

Applicant: Brioc McHugh

Application Type: Permission

Planning Authority Decision: Grant

APPEAL

Appellant: Brioc McHugh

Type of Appeal: 1st-v-Conditions

DATE OF SITE INSPECTION: 27th April 2016

Inspector: **Colin McBride**

1. SITE DESCRIPTION

- 1.1 The appeal site is located to the west of Bray and just east of the N11. The site is occupied by a two-storey detached dwelling that is part of a small housing development called Rectory Way. To the north east is no. 13, which is a dwelling that is identical to that on the appeal site (two-storey, detached, gable fronted dwelling) and to the south west is no. 15, a part two-storey, part dormer, detached dwelling. To the north west of the site is a forested area and beyond this is the N11.

2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for the conversion of an attic to a bedroom and playroom with a new gable external balcony to bedroom, new window to front elevation and new Juliet balcony to rear.

3. LOCAL AND EXTERNAL AUTHORITY REPORTS

3.1

- (a) Senior Executive Engineer (30/11/15): refusal recommended due to inadequate water supply for firefighting at Rectory Way.
- (b) Planning report (05/01/16): The proposal was considered to be generally acceptable apart from the balcony in the roof profile and the Juliet balcony to the rear. The balcony in the roof profile was considered to be detrimental to the visual amenity of the area and the Juliet balcony was considered to facilitate overlooking of adjoining properties. A grant of permission was recommended subject to the conditions outlined below.

4. DECISION OF THE PLANNING AUTHORITY

- 4.1 Permission granted subject to 5 conditions. Of note are the following conditions.

Condition no. 2: development contribution condition requiring payment of €2,508.

Conditions no. 3:

- (a) The balcony to the front of the property shall be enclosed by a 1.8 metre high railing consisting of steel post and glazed panels which shall be in translucent glazing.
- (b) The Juliet balcony in the rear elevation shall be replaced with a window matching the proposed second floor window in the front elevation.

Reason: To protect the residential amenities of adjoining properties.

5. PLANNING HISTORY

5.1 No planning history on the appeal site.

6. PLANNING POLICY

6.1 The relevant plan is the Bray Town development plan 2011-2017. The site is zoned RE1: Primarily Residential Zone with a stated objective “to protect existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services”.

7. GROUNDS OF APPEAL

7.1 A first party appeal has been lodged by Brioc McHugh, 14 Rectory Way, Bray, Co. Wicklow. The grounds of appeal are as follows...

- The appeal concerns the terms of condition no.s 2 and 3 outlined above.
- In regards to the requirement for a translucent screen for the balcony in the roof profile, it is requested that this be kept to a height of 1.2m and not the 1.8m stipulated to allow for a view of Bray coastline without which the applicant/appellant is unlikely to proceed with such balcony. It is noted that if the lower height is not acceptable the applicant/appellant would wish to install 3 no. rooflights as illustrated in the pictures submitted with the appeal submission. The appellant also notes that there were no objections to this aspect of the proposal from adjoining residents.
- In regards to the Juliet balcony, which is not permitted and is to be replaced with a similar window proposed on the front elevation at second floor level, it is noted that none of the adjoining residents objected to such and due to the existing high trees/forest located to the rear of the dwelling the applicant is looking to maximise light. The applicant/appellant proposes an alternative in the form of a full length window with a 1.2m high translucent glass barrier as illustrated in the picture attached to the appellant's submission.
- The appellant questions the justification for the development contribution under condition no. 2 noting that such is a high charge for an attic conversion and that the development is in a private residence where the applicant/appellant is personally liable for the maintaining immediately surrounding infrastructure.

8. RESPONSES

8.1 Response by Wicklow County Council.

- The calculation of the development contribution under condition no. 2 is included in the planning report and accords with the Contribution Scheme.

9. ASSESSMENT

9.1 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

Condition no. 3

9.2 **Condition no. 2:**

9.2.1 Condition no. 2 is a condition applying a development contribution of €2,508 based on the section 48 Development Contribution Scheme in place. The scheme question is the Wicklow County Council Development Contribution Scheme adopted on the 5th of October 2015. The contribution is based on the proposal being a residential extension. Under the adopted development contribution scheme it is noted those residential extensions that increase the floor area over 100 square metres in urban areas will be subject to the contributions identified in Tables 4.1 and 4.2. It is noted that where the floor area of the dwelling is already over 100 square metres a waiver is given for the first 40 square metres. This waiver will only apply where the dwelling has not previously been extended less than 40 square metres. Based on the information in the planning report, the existing dwelling has previously been extended by 40 square metres to the rear and the contribution charged is based on the floor area of the attic conversion (44 square metres x €57).

9.2.2 The proposal is an extension of the habitable floorspace of the existing dwelling and as such is classified as an extension to a dwelling. Based on the terms of the contribution scheme and as the existing dwelling is a non-rural dwelling over 100square metres the proposal is subject to the contributions required under Table 4.2 (attached), which equate to €57 per square metre. In this case the waiver for the first 40 square metres of the extension does not apply as the existing dwelling has been extended previously to the rear by 40

square metres. I would note that in attaching condition no. 2, the Planning Authority was applying the terms of the Wicklow County Council development Contribution Scheme correctly. In this regard I would recommend that condition no. 2 be retained.

9.3. Condition no. 3:

9.3.1 Condition no. 3 is in two parts, part (a) requires that the balcony to the front of the property shall be enclosed by a 1.8 metre high railing consisting of steel post and glazed panels which shall be in translucent glazing and part (b) requires that the Juliet balcony in the rear elevation shall be replaced with a window matching the proposed second floor window in the front elevation. In regards to the balcony the Planning Authority was concerned regarding the potential for overlooking of the first floor windows of the adjoining property and sought to condition that the balustrade be raised in height and fitted with obscure glazing to act as a screen. The appellant notes that this alteration would mean he would be unlikely to proceed with the balcony due to loss of the view to the north east and requests that consideration be given to the installation of rooflights instead. In this regard I would note that there are windows at first floor level on the south western elevation of no. 13 and there is the potential that the balcony as proposed would cause overlooking. I would consider that provision of rooflights instead of the balcony area would be acceptable and would alleviate concerns regarding overlooking. I would note that the upper section of the rooflight shall be only section openable and not the lower section as shown in the pictures submitted with the appeal. In this regard I would recommend that condition 3(a) be amended to entail the replacement of the balcony with a set of rooflights with detailed drawings to be agreed with the Planning Authority prior to the commencement of development.

9.3.2 The second part of the condition 3 relates to the Juliet balcony. The condition stems from concerns that such would result in overlooking of the adjoining properties. In this regard I would note that although orientated to the rear as per the pattern of development, the proposed balcony would allow for potential overlooking of adjoining properties due to the fact that it is effectively a balcony albeit not a protruding one. I consider it appropriate that this aspect should be omitted in favour of a window. The appellants is asking that instead of replacing such with a window similar to that proposed in the front elevation, that a full length window with a 1.2m translucent barrier be installed. Based on the information submitted and the photo of the alternative proposed, I do not consider that such is sufficiently different from that proposed (Juliet balcony) and consider it appropriate to retain the second part of condition no. 3 to protect the residential amenities of adjoining properties.

DESCISION

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 RETAIN Condition No 2, and AMEND Condition no. 3 as follows....

Condition no. 3

(a) The balcony to the front of the property shall be omitted and replace by a rooflight/rooflights to the same dimensions as the opening proposed in the roof profile. The openable portion of such shall correspond to the upper sections of this window/windows. Details of this alternative proposal shall be submitted to the Planning Authority for written agreement prior to the commencement of development.

(b) The Juliet balcony in the rear elevation shall be replaced with a window matching the proposed second floor widow in the front elevation.

Reason: To protect the residential amenities of adjoining properties.

and the reasons therefor.

REASON AND CONSIDERATIONS

(a) The application of the development contribution subject to condition no. 2 is fully compliant with the Wicklow County Council Development Contribution Scheme 2015 adopted in accordance with section 48 of the Planning and Development Act, 2000 (as amended).

(b) Having regard to the pattern of development and the nature, scale and orientation of the proposed development, the amendment subject to condition no. 3 are considered appropriate to protect the residential amenities of the adjoining properties. The proposed development subject to such conditions would be in accordance with the proper planning and sustainable development of the area.

Colin McBride
28th April 2016