



An
Bord
Pleanála

Inspector's Report

An Bord Pleanála Ref.

PL29S.246552

Proposed Development

Internal adaptations and single and two storey extensions to all elevations, including screened balconies to east and west elevations, enlarged dormer window at first floor / roof level and widening of the gateway and raising of the boundary walls.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

2353/16

Applicant(s)

Anthony O'Flaherty.

Type of Application

Permission.

Planning Authority Decision

Grant Permission.

Appellant(s)

Anthony O'Flaherty
Emer Daly and Damien O'Neill

Observer(s)

none.

Date of Site Inspection

2nd August, 2016.

Inspector

Stephen Kay.

1.0 Site Location and Description

The appeal site is located on Airfield Court at the junction of Airfield Court and the Stillorgan Road. The site is currently occupied by a dormer dwelling which is orientated in a north east direction towards the Stillorgan Road. The rear of the dwelling overlooks the side of No.11 Airfield Court to the west which is a two storey semi-detached dwelling. The site is well screened with a c. 2 metre high wall to the Stillorgan Road frontage and a low wall with hedging above to the Airfield Road frontage. The rest of the houses on Airfield Court are two storey buildings. The rear of the existing dwelling on site has a dormer window which faces No.11 and this dormer element serves a bathroom at first floor level. There are currently two bedrooms at first floor level with windows in the gable ends at the first floor.

To the north, the appeal site adjoins a dormer dwelling which has access from Stillorgan Road and it would appear as if this dwelling is located on lands which previously formed part of the curtilage of the dwelling on the appeal site. Further to the north is located the site of the Teresian School.

The floor area of the existing dwelling on the site is stated to be c. 175 sq. metres.

2.0 Description of Proposed Development

The proposed development is advertised as *'internal adaptations and single and two storey extensions to all elevations.....'*. The changes sought are significant and would result in an increase in the floor area of the dwelling to c.314 sq. metres. The floorplan at ground floor level is proposed to be significantly amended and extended with extensions to all four elevations, including the construction of a glazed octagonal shaped element located at the north east corner of the floorplan.

At first floor level the proposed development provides for two bedrooms with en suite bathrooms. A third smaller bedroom identified on the plans as 'guest carer' is also indicated to the front (north east) of the floorplan.

Internally, significant alterations are proposed and two entrances are proposed in the north east facing elevation. The layout of the accommodation indicates that there would be scope for two units within the building with each entrance accessing a living room and kitchen at ground floor level and bedroom accommodation above. Two staircases are proposed as well as a single lift. Connections between the two living areas are proposed at both ground and first floor levels however these linkages are not very conducive to single occupation of the dwelling. This is particularly the case at ground floor level where the connection between the accommodation in the northern half of the floorplan and the rest of the ground floor is only available via a WC or what is identified on the plans as a 'shared store'.

The application also provides for a widening of the existing vehicular access to 3.5 metres and the raising of the site boundary wall along the junction with Airfield Park to 2 metres.

3.0 Planning History

Dublin City Council Ref. 4470/02; ABP Ref. PL29S.202242 – Permission granted by the Planning Authority and decision upheld on appeal for the construction of a two storey extension to the side of No.11 Airfield Park, facing the appeal site. This two storey extension has been constructed and incorporates a master bedroom at first floor level with windows fitted with obscure glazing / glass block facing north east towards the appeal site.

There is no record in the Planning Officer report or the Dublin City Council online planning search facility to any planning history relating to the appeal site.

4.0 Planning Authority Assessment and Decision

4.1 Internal Reports

Planning Officer – The report of the Planning Officer notes the design and layout of the dwelling as well as the objections received. It is concluded that the proposed rear balcony would have a negative impact on amenity and should be omitted. The internal layout is noted however subject to condition regarding single occupancy it is considered acceptable. A grant of permission consistent with the Notification of Decision which issued is recommended.

Drainage Division – No objection.

4.2 Notification of Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 9 no. conditions, the most significant of which in the context of the current appeal are considered to be the following:

Condition No.3 requires the revision of the development to omit the balcony on the rear (western) elevation.

Condition No.4 requires that the dwelling shall be used as a single family dwelling and not sub divided for lease or sale.

5.0 Appeal Submission

5.1 Third Party Appeal

The following is a summary of the main issues raised in the third party appeal (from the resident of No.11 Airfield Park) against the Notification of Decision to Grant Permission issued by the Planning Authority.

- That the development would result in significant overlooking of neighbouring properties.
- That the omission of the balcony will still result in large scale windows / glazing facing the appellants property. This glazing should have been omitted under Condition No.3 and so the Planning Authority decision does not protect the amenity of the appellants property.
- That if the balcony would give rise to overlooking then the glazing would also give rise to potential overlooking. This glazing should be reduced in extent. The condition did not require the reduction in the flat roof area created outside the proposed double doors.
- That the layout indicated proposes two kitchens and two living rooms, two separate entrances and two staircases and would appear to be laid out for multi occupation. Section 17.9.10 of the plan clearly requires there to be a case made for ancillary family accommodation and 17.9.9 relating to the sub division of larger dwellings close to the city centre on the main transportation routes does not apply in this case. The condition no. 4 regarding occupancy is not enforceable and it is unfair on the third party to have to try and ensure

compliance with this condition. If it is the intention to provide a granny flat or family accommodation this should be cited in the public notices.

- That the proposed works involves extending the drive width to 3.5 metres which is unnecessary unless there is an increase in cars and use of the site.
- That drawing No. 1523/04 inaccurately shows the southern elevation of the house.
- No details have been provided of the lift overrun.

5.2 First Party Appeal Against Condition No.4 (omission of the first floor balcony)

The following is a summary of the main issues raised in the appeal submission received from the first party:

- That the elevation drawings show that the balcony is orderly architecturally. There is no unsightly view created.
- That there would be no loss of privacy or amenity. The balcony is on the western elevation and would not result in shading. It is located within the roofline and would not be visually overbearing.
- That the garden to the dwelling on site has been increasingly overshadowed by developments on adjacent sites. It is the only way to get sunny areas for the residents by raising them up.

6.0 Response Submissions

6.1 Response of the Planning Authority to Appeal

Response states that the planning authority have no further comments to make.

6.2 First Party Response to Third Party Appeal

The following is a summary of the main points raised in this submission:

- That there would be no overlooking of the neighbouring properties from the balcony proposed and the only view is to the rear 12.5 metres from the boundary.
- That the purpose of the balcony is to catch evening sunlight which has been lost as a result of the construction of the extension to the side of No.11.
- That the creation of a separate dwelling is simply not applied for and the plan would not work as such.
- That the roof is shown as extending to protect the balcony on both side and the drawing / elevation is accurate. There are lifts on the market which do not have an overrun or lift head.

6.3 Third Party Response to First Party Appeal

The following is a summary of the main points raised in this submission:

- Not accepted that the design would be architecturally compatible with the adjoining properties. The enclosed balcony projects forward of the building line.
- That there would be significant overlooking of the front garden of No.10 from the balcony which is only 4 metres away and there is only a separation of 10 metres from the balcony to the rear garden of No.10.
- It is not accepted that the side extension to No.10 has any impact on light to the garden of No.11 and this proposal was fully assessed at the time and was permitted by the Planning Authority.
- That the restricted depth of the garden to No.11 is as a result of the sale of the rear garden for the construction of No.115.
- Sunlight is available to the entire elevation of No.10 at ground floor level and the argument of the first party regarding the need to have an open space / balcony at height is not accepted. Submitted that the principal reason for the balcony is the provision of a separate amenity space to serve the sub division of the unit.

7.0 Planning Policy

The site is located in an area that is zoned Objective Z1, 'to protect provide for and improve residential amenities'.

Appendix 25 of the Plan relates to extensions to residential properties and sets out a number of principles to be followed in developments. This includes reference to balconies where it is stated that *'balconies will only be allowed where they are well screened and do not adversely overlook adjoining properties. The use of the roofs of flat roofed extensions as balconies can often lead to problems of overlooking'*.

Paragraph 17.9.8 of the Plan states that extensions will be granted where they have no adverse effect on the scale and character of the dwelling and no unacceptable effect on the amenities enjoyed by the occupants of the adjacent buildings in terms of privacy and access to daylight and sunlight.

Paragraph 17.9.10 relates to ancillary family accommodation and sets out the criteria where such developments may be permitted including that a valid case for such a sub division of the unit is made.

8.0 Assessment

The following are considered to be the main issues of relevance in the assessment of this appeal:

- Principle of Development,
- Design and Visual Impact
- Impact on Residential Amenity
- Layout / Single Occupation
- Other Issues

8.1 Principle of Development

8.1.1 The site is located in an area that is zoned Objective Z1 ‘to protect, provide for and improve residential amenities’. Residential development is a permissible use on lands zoned Objective Z1 and the principle of extensions to residential properties is set by Paragraph 17.9.8 of the Dublin City Development Plan, 2011-2017 which states that *‘applications for planning permission to extend dwellings will be granted provided that the proposed development has no adverse impact on the scale and character of the dwelling and has no unacceptable effect on the amenities enjoyed by the occupants of the adjacent buildings..’*

8.1.2 The principle of the redevelopment of the dwelling is therefore considered to be acceptable subject to considerations of design and amenity. The impact of the proposal on scale character and residential amenity is considered in more detail in the sections below.

8.2 Design and Visual Impact

8.2.1 The appellants contend that the proposed development will result in the addition of visually incongruous elements to the overall design and note that the proposed balcony and dormer would break the building line on Airfield Park. It is further noted that none of the existing properties in the vicinity of the site currently have first floor balconies.

8.2.2 The proposed design incorporates additions to the floorplan on both the north east and south west corners where single storey extensions are proposed to have balcony spaces above. Neither of these additional elements is especially large and the development is well screened from public view by the existing boundary wall and planting. The proposed design would clearly be different from the prevailing form of

development on Airfield Park however the existing dormer dwelling on the site is currently of a different scale and character to the rest of the properties in the vicinity. The overall scale of the dwelling in terms of ridge height would not change on foot of the proposed development.

8.2.3 Given its current form, location and visual screening I do not consider that the basic form proposed would be visually incongruous as contended by the third party appellants. Similarly, I do not see how the proposed balcony to the rear (south west facing) elevation would break the building line formed by the front of dwellings on Airfield Park. I do however consider that the balcony proposed in this location would comprise a visually prominent feature when viewed from the south on Airfield Park and one which would be a potentially visually discordant feature when viewed from this location. I note the fact that the justification for the design approach proposed with the first floor open space proposed to the main bedrooms is that the amenity of the existing garden has been compromised by the development undertaken to the site of the adjoining property at No.11 Airfield Park (the third party appellant's property) and specifically that the ground level open space has been overshadowed by this development. The third party rejects this assertion and states that the impact of the extension to No.10 was the subject of daylight and sunlight analysis which showed that there would not be a negative impact on amenity. On the basis of my inspection of the site, the relative orientation of the properties and the separation of slightly over 7 metres between the rear of the existing dwelling (south west facing elevation) and the boundary with No.11 I do not consider that there is likely a significant impact on daylight and sunlight to the garden of the property on the appeal site.

8.2.4 The residential amenity implications of the proposed development and this specific balcony feature are considered in more detail in the sections below.

8.3 Impact on Residential Amenity

8.3.1 The main issue raised by the third party appellants relates to the impact of the proposed development on their residential amenity and the creation of overlooking and loss of privacy as a result of the proposed development. The proposed design provides for a large area of glazing and double opening doors from what is identified on the plans as the 'Front bedroom' and the creation of a balcony accessed from this bedroom and located above the ground floor extension to the living room. This balcony is indicated as being screened on the southern and western sides by a solid barrier or wall of c. 1.8 metres in height. To the north, the balcony is proposed to have a lower screen wall of c. 1.1 metres in height.

8.3.2 The appellant contends that the proposed balcony would have a negative impact on residential amenity by virtue of overlooking and I would agree that the design would facilitate overlooking to the north west in the direction of the rear garden area of No.11. In addition, as set out above, I consider that the balcony structure and design incorporating the 1.8 metre high screening around it would constitute a visually overbearing and incongruous structure when viewed from the front garden of No.11 and from the street on Airfield Park. For these reasons it is my opinion that the decision of the Planning Authority to omit this balcony by condition is correct and necessary to protect residential and visual amenity.

8.3.3 The appellants residing at No.11 also note the fact that the decision of the Planning Authority, while omitting the balcony does not specify that the scale of the window or opening doors would be omitted from the development. It is contended that the extent of glazing should be reduced to minimise the degree of overlooking that may arise. I would agree with the appellant that the omission of the balcony and the provision of a dormer window serving this bedroom would have potential impacts in terms of overlooking. In order to be acceptable I consider that the extent of glazing

requires significant reduction and that the window would take the form of a dormer with the roof slope reinstated and a cill height similar to those windows proposed further to the north west in this elevation. These other windows are proposed to serve two bathrooms and a landing area and I consider that these are acceptable subject to them being fitted with obscure glazing. The window to the bedroom would overlook the front garden area of No.11 however it would not directly overlook any windows to habitable rooms in the appellants house and would be a minimum of 8 metres from the boundary were it to be in line with those proposed to serve the en suite bathrooms and the landing area. Oblique views towards the rear garden of No. 11 would be available but at a significant distance of c. 13 metres at the closest point and such that there would not in my opinion be a negative impact on residential amenity.

8.3.4 The design and layout of the proposed development is such that there would not in my opinion be a negative impact on the residential amenity of no.115 to the north of the site.

8.4 Layout / Single Occupation

8.4.1 The appellants note the fact that the internal layout of the dwelling on the appeal site is proposed to be the subject of significant alteration and that the design lends itself to use as two largely separate units. The existing dwelling has two entrances in the north east elevation however the layout is not clearly that of a family flat and there is no record of sub division of the house being the subject of an application for permission.

8.4.2 I note and agree with the comments of the third party with regard to the layout and the potential use as two units. In particular I note the fact that the proposed layout

provides for two separate entrances, two kitchens, two living rooms and two staircases. In addition the degree of connection at ground floor level is very limited. I would accept that connectivity at first floor level is greater and that the design is not such that it would be two completely separate residential units or sub division of the unit, however the layout is clearly in my opinion along the lines of ancillary family accommodation or the functional separation of the dwelling into two units. In these circumstances I would agree with the appellants that further justification of the layout proposed and demonstration of compliance with Paragraph 17.9.10 of the development plan (relating to ancillary family accommodation) should have been sought and if necessary the development advertised as sub division of the unit. I would also largely accept the case made by the appellants that, given the design and layout, it is not appropriate that occupancy would be addressed by way of a condition and that it is not reasonable that the enforcement of this condition would have to be sought by the third party in the event of non compliance.

8.4.3 In the circumstances it is my opinion that in order to be acceptable significant alterations to the internal layout of the dwelling are required to ensure that it functions as a single occupancy unit. Specifically, I am of the opinion that one of the proposed entrances in the north east facing elevation and one of the staircases should be omitted by condition.

8.5 Other Issues

8.5.1 Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.5.2 With regard to the proposed alteration to the vehicular access and the widening of the entrance to 3.5 metres, I do not have a specific objection to this and note the location of the access in relatively close proximity to the junction with the Stillorgan Road and the narrow (c. 2.6 metre) width of the existing access.

8.5.3 Regarding the proposed increase in the height of the boundary walls, what is sought is an increase in the boundary fronting onto Airfield Park to 2 metres to match that fronting the Stillorgan Road. The existing boundary on Airfield Park comprises a relatively low level wall with hedge above. This boundary treatment matches those on the road and I do not see a clear justification in terms of privacy or other rationale for permitting the 2 metre height sought in this location. In the event of a grant of permission therefore it is recommended that the proposed increased height of the boundary wall would be omitted by way of condition.

9.0 Recommendation

In view of the above it is recommended that permission be Granted based on the following reasons and considerations and subject to the attached conditions:

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 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 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 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 proposed development shall be amended as follows:
 - (a) The proposed increase in height of the boundary wall to Airfield park shall be omitted from the development.
 - (b) A single access to the dwelling shall be provided in the north east facing elevation and a single staircase with the staircase at the south eastern side of the floorplan omitted from the layout.
 - (c) The balcony to the 'front bedroom' and located at the south west corner of the dwelling shall be omitted from the development. The twin opening doors indicated on the plans accessing this balcony shall also be omitted and these doors and associated glazing replaced by a single dormer window of maximum dimensions 1.2 metres in width by 1.0 metres in height and having the same cill height as the permitted dormer windows in this elevation. The area in front of this window shall be roofed to match that proposed to the front of the dormer windows to the north.

- (d) Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. The external finishes of the proposed development including roof tiles/slates shall match those of the existing dwelling in respect of colour and texture. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The dormer windows on the south west facing elevation serving the en suite bathrooms and the landing area shall be glazed with obscure glass.

Reason:- To prevent overlooking of adjoining residential property.

5. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

6. 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.

7. Site development and building works shall be carried only out between the hours of 07.00 to 18.00 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.

8. The developer shall pay to the planning authority a financial contribution of €8,640 (eight thousand six hundred and forty euro) 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. The application of any indexation required by this condition 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.

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.

Stephen Kay
Planning Inspector

16th August 2016