



An
Bord
Pleanála

Inspector's Report PL.06D.247092.

Development	Retention for the alteration to the size of a rear terrace and the construction of an additional lower rear terraced area
Location	No. 18 Wilson Road, Mount Merrion, Co. Dublin
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D16B/0223
Applicant(s)	Nico Petris
Type of Application	Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant	Nico Petris
Observer	Mrs Evanna Kennedy
Date of Site Inspection	25 th October 2016.
Inspector	Dáire McDevitt

1.0 Site Location and Description

- 1.1. Wilson Road is located in the suburb of Mount Merrion which forms part of the southern suburbs of Dublin. The site consists of a house which is currently under construction at No. 18 Wilson Road, Mount Merrion, this replaces a 1950s single storey house formerly on site. The houses along Wilson Road are detached single storey units. Some have developed split level extensions to the rear. Levels drop from south (front) to north (back).
- 1.2 The rear boundaries of houses along Wilson Road are characterised by low level walls. Most houses along the road have augmented the boundary treatment between rear gardens with either planting or timber fencing. There is a history of raised terraces and decking in rear gardens along this section of Wilson Road. The rear boundary of No. 18 consists of low level walls. Planting along the boundary has been removed to facilitate construction works.
- 1.3 The site at present is a building site, works to the rear garden have ceased pending the outcome of this application.

2.0 Proposed Development

- 2.1 Permission is being sought for the retention of alterations to an upper terrace (1.6m wide). Permission granted under D14A/0748 for the redevelopment of the site included a 1.2m wide terrace.
- 2.2 A second lower level terrace is partially constructed. It is 5.8 metres in depth and 1 metre above the adjoining ground levels at the highest point.
- 2.3 Levels:
 - Upper terrace: 97.23
 - Lower terrace: 96.44
 - Rear garden: 95.39

Drawings submitted include proposals for boundary treatment. Wire mesh and planting along the side boundaries)

3 Planning Authority Decision

3.0 Decision

Refuse permission on the following grounds:

Having regard to the Dun Laoghaire- Rathdown County Development Plan, 2016-2022 and the residential zoning of the site, the levels of the subject site and No. 16 Wilson Road, the existing boundary treatment, the extent of the permitted development, it is considered that the proposed development would be excessive in height and would not provide a suitable design solution to overcome the overlooking of the adjoining dwelling and be visually pleasing. Therefore, the proposed development would be visually overbearing when viewed from No. 16 Wilson Road. In addition, suitable screening has not been shown between the proposed development and No. 20 Wilson Road. It is therefore considered that the proposed development would seriously injure the amenities of the property in the vicinity contrary to the proper planning and sustainable development of the area.

3.1 Planning Authority Reports

3.1.1 Planner's Report (20th July 2016)

This Report forms the basis for the Planning Authority's decision and the main issues are highlighted below:

- Planning & Enforcement history
- Visual Impact
- Residential Amenity.

3.1.2 Other Technical Reports

- Municipal Services Department. Drainage Planning: No Objection.

3.2 Third Party Observations

The observer lodged a submission at the time of the application to the planning authority which is largely in line with current observation and shall be dealt with in more detail in the relevant section of this Report. The main points are summarised below:

- Overlooking of no. 16 Wilson Road
- Non-compliance with planning regulations
- Non-compliance with planning permission D14A/0748
- Unacceptable screening measures

4.0 Planning History

D14A/0748 permission granted in March 2015 for the demolition of existing single storey house and construction of a single and part two storey house, landscaping, boundary treatment, rear terrace and ancillary works.

Enforcement Reference **19/16** with regard to non-compliance with condition no. 1 of D14A/0748 (enlarged terrace constructed at upper level and an additional terrace at lower level and relocation of soakpit).

Other histories of relevance in the area:

No. 12 Wilson Road (located 3 houses to the west of no. 18 Wilson Road):

D13B/0333 (PL.06D.242875): Permission granted in May 2014 for partial retention of existing raised decking area to the western side of rear elevation, including modifications to the existing raised decking area. Steps were introduced 5.8 metres from the northeast boundary of the site to overcome overlooking. A second deck at lower level (1.35 metres below) was proposed. A 1 metre planter with evergreen trees was proposed between no, 12 and 14 Wilson Road.

5.0 Policy Context

5.1 Dún Laoghaire Rathdown County Development Plan 2016-2022

- Site is zoned under Land Use Objective 'A' *To protect and/or improve residential amenities.*
- Section 8.2.3.1 Quality Residential Design and reference to the levels of privacy and amenity.

5.2 Natural Heritage Designations

None of relevance

6.0 The Appeal

6.1 Grounds of Appeal

A first party appeal has been lodged.

The grounds of appeal are summarised as follows:

- The applicant is redeveloping the site of his former family home which he purchased in 2014.
- Consulted neighbours before lodging the original application in 2014.
- The upper terrace is only marginally wider than that permitted under D14A/0748.
- Lower terrace would fall under exempted development Part 1 Schedule 2 Class 6 if the house was finished and occupied. The applicant has outlined that he did not realise the house had to be completed for the exemption to apply.
- Aesthetically pleasing screening proposed to protect his and his neighbours privacy
- Application for retention is on foot of enforcement proceeding from Dún Laoghaire Rathdown County Council in relation to two terraces.

- Precedent in the area for raised terraces/decking to the rear of the properties and in the gardens.
- The heights of the terraces are not excessive and are designed to fall within the limits of Exempted Development as set out in the legislation.
- Proposed screening mitigates any overlooking and has a minimal impact on neighbouring sites.
- The applicant has no objection to providing screening along the entire length of the site on both sides if the Board require it.

6.2 Planning Authority Response

No further comments. Directed to the original Planner's Report on file.

6.3 Observations

One Observation has been received from Mrs Evanna Kennedy, No. 16 Wilson Road (house adjoining no. 18 to the west). The main points raised in the observation are summarised below:

- Extensive unauthorised works carried out.
- Non-compliance with D14A/0748
- Serious negative impact the unauthorised terraces are having on no.16 Wilson Road.
- Overlooking and loss of privacy
- Overshadowing
- Excessive heights and would be visually overbearing.
- There has never been a degree of historical overlooking.
- The section of boundary that was repaired was due to damage during construction works at no. 18.
- The upper terrace appears to have been constructed against and on top of the existing boundary wall with no consideration or respect for the privacy of the residents of no. 16.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal. I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Residential Amenity
- Visual Amenity
- Appropriate Assessment

7.1 Residential Amenity

7.1.1 An upper terrace was granted permission as part of the redevelopment of the site under Planning Reference D14A/0748. The upper terrace to be retained differs marginally from that permitted (1.2m to 1.6m in width). The second lower terrace which is partially constructed would fall under Part 1 Schedule 2 Class 6 of the Planning and Development Regulations 2001 (as amended) if the house was completed and occupied at the time of its construction.

7.1.2 The Planning Authority refused permission for retention of the two terraces having regard to the levels of the site, the existing boundary treatment and the extent of the permitted development. That the two terraces would be excessive in height and a suitable design solution was not provided to overcome overlooking of the adjoining dwelling and be visually pleasing.

7.1.2 The observer has raised concerns that the retention of the two outdoor terraces would result in loss of privacy due to overlooking of her property (No. 16 Wilson Road) located to the west of no. 18 Wilson Road. The Observer also noted that the screening proposed was not acceptable.

7.1.3 At present there are low boundary walls between the rear properties along Wilson Road. This boundary treatment is historical and numerous properties have augmented their rear boundaries, with planting or timber fencing, to increase screening and privacy between rear gardens. While there is presently overlooking of the rear gardens of no. 16 and no. 20, there is no direct overlooking into the houses.

7.1.4 The screening of the rear gardens can be addressed by including a condition that requires that the applicant continues the post and panel fence (1.8m in height) for the entire length of the rear garden along both side boundaries. This boundary treatment would result in screening that is both visually acceptable and addresses overlooking of rear amenity spaces both into and out of no. 18 Wilson Road. Subject to the provision of adequate boundary treatment and screening there are no negative impacts on the residential or visual amenities of the adjoining properties.

7.1.5 I disagree with the Planning Authority's decision to refuse permission for retention. The alterations to the upper level terrace and additional lower level terrace enhance the overall design of the rear amenity space and do not detract from the visual or residential amenities of the area or that of adjoining properties. Permission for retention should, therefore, be granted

7.2 Appropriate Assessment

7.2.1. Having regard to the nature and scale of the development and proximity to the nearest Natura 2000 site, I am satisfied that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

8.0 Recommendation

8.1 I recommend therefore that permission for retention be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations.

Having regard to the pattern of development in the area, the development to be retained, subject to compliance with conditions as set out below, would not seriously injure residential amenity of properties in the vicinity. The retention of the development would therefore be in accordance with the proper planning and sustainable development the area.

10.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application except as otherwise may be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The development shall be amended as follows.

The timber post and panel fencing shall be continued for the entire length of the rear garden along the side boundaries with No.16 and No.20 Wilson Road. These works shall be carried out within three months of this order

Reason: In the interest of residential and visual amenity

Dáire McDevitt
Planning Inspector

26th October 2016