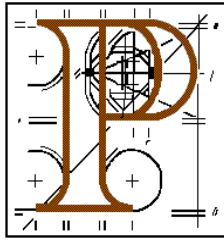


An Bord Pleanála



Inspector's Report

Development

Extension to rear of house at No. 4 Fontenoy Terrace (a Protected Structure),
Bray, County Wicklow.

Planning Application

Planning Authority: Wicklow County Council

Planning Authority Register Reference: 16/688

Applicant: Roisin Fitzpatrick

Type of Application: Permission

Planning Authority Decision: Grant

Planning Appeal

Appellant(s): Sheila Russell

Type of Appeal: Third Party

Date of Site Inspection: 28th November, 2016

Inspector: Kevin Moore

1.0 APPLICATION DETAILS

- 1.1 There is a third party appeal by Sheila Russell against a decision by Wicklow County Council to grant permission to Roisin Fitzpatrick for the construction of an extension to the rear of No. 4 Fontenoy Terrace (a protected structure), Bray, County Wicklow.
- 1.2 The proposed development would comprise a ground floor extension to the rear of a mid-terrace house that would provide an additional floor area of 30.39 square metres that would extend the kitchen/dining area to the side and rear. The development would also include the provision of a new window at first floor level on the rear elevation of the house and provision of rooflights and solar panels on the roof to the rear. Details submitted with the application included a shadow analysis and a letter from the applicant explaining the need for the extension and the considered impact on neighbours.
- 1.3 An objection to the proposal was received from Sheila Russell. The grounds of the appeal address the concerns raised. The applicant made a submission to the planning authority in response to this objection.
- 1.4 The reports received by the planning authority were as follows:
- The Planner noted development plan provisions and the observation received. The proposed design was considered acceptable and was viewed as not having adverse impacts on the amenities of adjacent properties or on the character and setting of the protected structure. Noting there would be a loss of private amenity space, it was submitted that there was a large terrace to the rear that is utilised and it was submitted that the site is also located along Bray seafront. There was no objection to the loss of amenity space. A grant of permission was recommended.

- 1.5 On 8th August, 2016, Wicklow County Council decided to grant permission for the development subject to 3 no. conditions.

2.0 SITE DETAILS

2.1 Site Inspection

I inspected the appeal site on 28th November, 2016.

2.2 Site Location and Description

No. 4 Fontenoy Terrace is a mid-terrace two-storey 19th century dwelling located close to the south-western end of the beach front in the town of Bray. The terrace is set back from Strand Road and immediately behind the terrace of six houses lies the Dublin-Rosslare / Bray-Greystones railway line. Each of the houses has a two-storey annex to the rear similar in form and height. There is a small yard behind the extended area to the rear of No. 4 and beyond this is a steep embankment rising to the elevated railway line behind this property. The Bray Head Hotel abuts the terrace to the north-west.

2.3 Bray Town Development Plan 2011-2017

Zoning

The site is zoned 'SF Seafront Uses' with the objective to protect and enhance the character of the seafront area and to provide for mixed-use development including appropriate tourism, leisure, and residential uses.

Architectural Heritage

Nos. 1-6 Fontenoy Terrace are listed as protected structures (RPS No. 100).

It is the policy of the Council to preserve and protect structures included in the Record of Protected Structures.

Extensions to protected structures shall only be permitted when it is considered that the new extension is necessary. Extensions should complement the original structure in terms of scale, materials, and detailing design while reflecting the values of our time.

Development Control Standards and Guidelines

The Plan states that the design and layout of extensions to houses should have regard to the amenities of adjoining properties particularly as regards sunlight and privacy. The character and form of the existing and adjoining buildings should be respected and external finishes and window types should match the existing. In particular, the Council will not permit development that has a significant overlooking, overshadowing or overbearing effect on adjoining properties, where this effect significantly reduces the residential amenity and privacy of adjoining properties.

2.4 Planning History

I have no record of any previous planning application or appeal relating to this site.

3.0 THIRD PARTY APPEAL

3.1 The appellant resides at No. 5 Fontenoy Terrace. The grounds of the appeal may be synopsised as follows:

- * The extension will result in 100% site coverage at the rear and side of No. 4. This will also pose a health and safety risk in terms of mobility.
- * The owners of Nos. 4 and 5 are the only residents of the terrace to have developed the embankment as an amenity, which is owned by Iarnród Éireann. They encroach significantly on the privacy of both houses and their use is excessively intrusive. If the extension proceeds, the appellant's home will be subject to overlooking from the second terrace on the embankment behind No. 4, which is almost at the level of the boundary wall.
- * By approving the development and agreeing the embankment is a legitimate amenity of the house, the Council is sanctioning free use of the four terrace levels to the rear of No. 4. This embankment is not part of the properties and there is no agreement or understanding with Iarnród Éireann to use it as an amenity.
- * The small private curtilage to the rear of these properties is essential for residents of the terrace. There is no privacy to the front of these properties.
- * The current boundary wall along the side of the appellant's kitchen is low at 5-foot 6-inches and there is a 14-foot distance between the windows of the kitchen and the opposing wall of No. 4. The opposing wall of the extension would be 7-foot from the appellant's windows and it is not known at what height the side wall of the new

extension will be directly behind the boundary wall. The side wall of the extension appears to result in a significant increase in height of the closest structure opposing the windows of the kitchen/living space. There are no windows in the kitchen of No. 5 and light comes in via a window and double doors on the side. There is no direct sunlight shining into the kitchen as the windows are north-facing. Daylight and reflected light is therefore paramount. The proposal will create a significant sense of overbearing and overshadowing.

- * The proposal constitutes a radical change to the site and overall design of the combined sites in the terrace. There is no precedent for the development of an extension.

4.0 APPLICANT'S RESPONSE TO THE APPEAL

The applicant submits that the appeal is without substance or foundation due to the proposed extension having no impact on the neighbouring property and it is requested that the appeal be dismissed. In refuting the grounds of the appeal, it is submitted:

- * The extensive embankment to the rear provides a substantial amenity. This is both secluded and private.
- * The separating wall between properties varies in height from 1.75m to 2.5m
- * The promenade, beach and Bray Head are public amenities of particular benefit to the residents of Fontenoy Terrace.

- * The proposed roof is sloping away from the boundary towards a two-storey building. The rear annex has a height of 4.6m to eaves and therefore the roof of a height of “10 feet” will have no impact on No. 5.
- * Shading diagrams are submitted to show there would be no reduction in light entering No. 5 nor increased shadowing.
- * There will be a large sliding door to provide direct access to the area at the rear of the property.

The appeal submission includes a letter from the applicant supporting her agent’s submission. This includes a proposal to change the proposed slated sloping roof to the side of the house to a roof with a solar reflective surface to increase reflective light into the appellant’s home. It also addresses what are referred to as incorrect facts and misleading information in the appeal submission.

5.0 THIRD PARTY RESPONSE TO APPLICANT’S RESPONSE

- 5.1 The appellant raises issue with the tone of the applicant’s submission. She reaffirms the boundary of their gardens in the Land Registry Map is approximately 7 feet from the rear walls of the houses and that this is the extent of the curtilage, with the embankment being the property of CIE. It is submitted that the rear doors of the extension would be onto the lowest terrace in the ownership of CIE. It is also repeated that the embankment has only been actively used by the residents of Nos. 4 and 5. Comment is made on the matters relating to stated incorrect facts and misleading information.

6.0 ASSESSMENT

6.1 Introduction

6.1.1 I consider the planning issues of particular relevance to this appeal relate to the impact on amenity for the occupiers of the proposed development and the impact on the residential amenities of adjoining properties.

6.2 Impact on the Amenity of the Occupier

6.2.1 The applicant's property ownership extends to the small rear yard area behind the rear building line of the house. The applicant does not own the embankment, which is Iarnród Éireann's property. There is no dispute relating to the ownership of this embankment. The applicant has developed a strip of this embankment for her use as private amenity space.

6.2.2 The proposed development would effectively eliminate the yard space that is available as private amenity space to the rear of No. 4 Fontenoy Terrace. This would leave the occupier of No. 4 with no private amenity space to the rear of her property over which she has legal control. Such development would eliminate a necessary functional component of this residential property. To suggest permitting such development could only be construed as allowing for disorderly development, in particular where this development forms part of a terrace, where the terrace is listed as a protected structure, where unity of form and character has been consistently maintained, and where the existence of private amenity space is clearly constrained for the protected structures. This demands protection of such spaces in the interest of providing a minimum standard of accommodation for residents.

6.2.3 This development, resulting in the removal of almost the totality of the applicant's private amenity space, would culminate in the occupier being without an essential area for the adequate functioning of a private residence. It would have a most deleterious effect on the residential amenities of the occupier. For this reason, the proposed development could not be viewed as being acceptable or as being in accordance with any understanding of what constitutes the proper planning and sustainable development of the area.

6.3 Impact on Residential Amenity

6.3.1 The proposed development seeks to utilise all available space to the rear of the site. The effect of this is to extend the development to the side such that it would abut the party wall with No. 5. This party wall varies in height, with the higher section of the wall being located at the rearmost section beyond where window openings on the gables of Nos. 4 and 5 oppose one another. Thus the party wall is primarily at the lower height. Accepting the applicant's submission that this relevant section of wall is 1.75 metres on the applicant's side and that the applicant's drawings indicate that the separation distance between opposing sections of the annexes is 4.4 metres approximately, it is clear that the proposed development would bring with it potential significant impacts for the neighbouring property.

6.3.2 The applicant's drawings indicate that the proposed development would be 2.97 metres in height over the finished floor level where it abuts the party wall. Further behind this, a glazed roof over the rear lobby would rise higher. It is my submission to the Board that this increase in height over the height of the party wall at the relevant location by over 1.2 metres, the elimination of a 'breathing space' between annex and party wall, and the

significant reduction in separation distance between dwellings at this location, would have significant adverse impacts for the available daylight accessing No.5 and for sunlight due to the orientation of these structures (particularly evening sunlight), and it would have an imposing, overbearing impact on this adjoining property. At a location where the design of these terraced (and now protected) structures within such a constrained location (due to their siting adjoining the railway embankment), the separation distance between opposing gables in the annexes is critical to the usability of habitable spaces where fenestration is provided primarily on these opposing gables.

6.3.2 Finally, it is evident that if one was to permit the proposed development then the only source of private amenity space available to the occupier of No. 4 would be the embankment. This would, by inference, be 'legitimising' the use of an embankment not in the applicant's ownership. The regular use of this space would indeed be a source of significant loss of privacy for neighbours by way of overlooking due to the elevated and very conspicuous position which this section of the embankment holds. This would be a serious nuisance for all other residents in this terrace who seek to use their own private amenity spaces to the rear of their houses and also because it allows for direct overlooking into the properties of adjoining houses. The effects of the development on the amenities of neighbouring properties would undoubtedly depreciate the value of adjoining properties.

7.0 RECOMMENDATION

I recommend that permission is refused in accordance with the following:

Reasons and Considerations

1. It is considered that the proposed development, comprising the development of the remaining private open space area to the rear of No. 4 Fontenoy Terrace, would result in the loss of an integral functional space to the rear of the house, would constitute overdevelopment of this restricted site that would significantly erode existing residential amenity, and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would seriously injure the amenities of adjoining residential property and would depreciate the value of the property by virtue of overshadowing and overbearing impact. In addition, the utilization of the adjoining embankment as private open space beyond the site as compensatory private amenity space would result in significant overlooking of adjoining properties and loss of privacy in Fontenoy Terrace. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Kevin Moore

Senior Planning Inspector

December, 2016.