



An
Bord
Pleanála

Inspector's Report PL29S.247244

Development	Construction of a first floor living room balcony at Flat No. 29, 29 Melmore, Eglington Court, Eglington Road, Donnybrook, Dublin 4.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3423/16.
Applicant	Deirdre Gough.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party against Refusal.
Appellant	Deirdre Gough.
Observer	None.
Date of Site Inspection	16 th and 18 th November, 2016.
Inspector	Jane Dennehy.

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1.0 Site Location and Description.

- 1.1. The appeal site is a two-bedroom apartment on the first floor within Melmore House which is a three storey apartment block located on the south site of Eglington Road. The living room which is a room of 6 metres in depth and 3.5 metres in width has one window, (the ope for which is estimated to be circa 1200 x 1000 mm) on the east elevation of the block which overlooks hardstanding in the foreground of mature trees and vegetation at the eastern boundary of the site with residential properties on Eglington Park.

2.0 The Planning Application.

- 2.1. The proposal is for the removal of the east facing living window and installation of full length patio doors in total width 3150 mm opening onto a timber deck balcony 1410 in depth. Owing to a recess of 610 mm the projection forward of the adjoining flank wall is circa 800 mm. Stainless steel uprights, handrails and obscure glass panelling are to be located along the perimeter of the balcony.
- 2.2. In the written submission accompanying the application it is claimed that precedent has been set in that there is a prior grant of permission for balconies on the front façade of Melmore House at Eglington Court. (See under Planning History in section 3 below.)

3.0 Decision of the Planning Authority

- 3.1. By order dated, 25th August,2016 the planning authority decided to refuse permission on the basis of the following reason.

“The proposed development by virtue of its location at first floor level would have an overbearing and negative impact on the residential amenity of residents below and set an undesirable precedent for similar development. The proposed development would be contrary to the provisions of the Dublin City Development Plan, 2011-2017 and the proper planning and sustainable development of the area.”

3.2. **The Planning Officer Report.**

In considering the proposal concluded that the balcony would have a serious adverse impact on the ground floor apartment beneath the applicant's apartment.

3.3. **Planning History:**

Reference is made to a prior grant of permission, under P. A. Reg. Ref. 3648/06 by the planning officer and appellant for balcony and external private seating areas for first and ground floor apartment living rooms on the west elevation of Melmore House. However, there are no hard copy or electronic records available for balcony development at Melmore House, Eglington Court.

4.0 **Development Plan**

4.1. The Dublin City Development Plan 2016-2022 was adopted in and brought into effect on October, 2016 after the assessment and determination of the decision on the application by the planning authority

4.2. The site location is within an area subject to the zoning objective Z1: *To protect, provide for and improve residential amenity.* Development Management standards are set out in section 16.10

5.0 **The Appeal**

5.1. An appeal has been Brian O'Donoghue, Architect on behalf of the applicant on 13th September, 2016. An outline summary follows:

- The applicant intends to provide the balcony for her use as a safe private external space for her use on retirement.
- No third party objections were submitted from residents of the apartment below the applicant's apartment or other apartments.
- There is precedent which is already established by the constructed external balconies at first floor level permitted under P. A. Reg. Ref. 4668/06.

- Private and communal open space include balconies over communal space which are recognised as enhancing the amenity of an apartment in development plan standards. (section 17 9.1 A2.2 – Dublin City Development Plan, 2011-2017.)
- Extracts from the plan on dimensions, connectivity to the internal living accommodation are included in the appeal.

5.2. **Response to the Appeal by the Planning Authority**

In the submission received on 6th October 2016 it is stated that there are no additional observations and it is requested that the decision of the planning authority be upheld.

5.3. **Third Parties**

There are no observer submissions.

6.0 **Assessment**

6.1. The issues considered central to the determination of a decision and considered below are:

- Impact on residential amenity,
- Established precedent and,
- Third party participation.

6.2. **Impact on residential amenity.**

The apartment and the living room is a large room reliant for access to daylight on one relatively small east facing window. It is fully agreed that that proposal for replacement with full length patio doors opening onto a balcony providing for a private external seating area would significantly enhance the amenity potential of the applicant's apartment. However, it is agreed with the planning officer that the proposed development would be seriously injurious to the amenities of the apartment on the ground floor beneath the applicant's apartment. The overhanging balcony would contribute to a sense of enclosure of the outlook from the apartment below

and would significantly obstruct access to sunlight and daylight from the internal living accommodation. These impacts may be exacerbated by the recess in that the projection of the front wall to the sides of the façade in which the living windows of the applicant's apartment the apartment below are located.

6.3. Precedent.

It is also acknowledged that external private open space has been provided via fully length patio doors on the front elevation of block at two apartments where a balcony is provided at first floor level and handstanding and railings at the ground floor apartment beneath the first floor apartment. The development of a similar external accessible at the ground floor apartment to some extent ameliorate adverse impact on the amenity of that apartment by the balcony off the first floor apartment overhead. It is not accepted that the development of these balconies gives precedent for the current proposal. In the subject instance there are no proposals for private external space adjacent to the living room of the ground floor apartment beneath the applicant's apartment. (The planning status of the existing external space for the two units on the west façade cannot be established in that no records are available.)

6.4. Third Party Participation

Positive consideration cannot be supported on the lack of third party objections or any reasoning as to why third party objections and submissions were not made at application stage or on grounds of enhancement of the amenity of the applicant's apartment because, on planning grounds the proposed development would be seriously injurious to the amenity of the property below on the ground floor and could also depreciate its value.

6.5. Appropriate Assessment.

Having regard to the limited scale and nature of the proposed development no Appropriate Assessment issues arise and it is not considered that the proposed development has a significant effect individually or in combination with other plans or projects on a European site.

7.0 Conclusion and Recommendation.

In view of the foregoing, it is recommended that permission be refused and that the appeal be rejected. In view of the foregoing it is considered that the appeal should be rejected. A draft reason for refusal of permission is set out overleaf

7.1. Refuse Permission on the basis of the reasons and considerations set out below.

Reason.

“It is considered that the proposed development of the balcony at first floor level would be seriously injurious to the residential amenities of the ground floor apartment below in which the main living room is served by one east facing window because it would significantly reduce access to sunlight and daylight and would result in a sense of enclosure of the main living room accommodation in the apartment by reason of the setback from the main façade. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.”.

Jane Dennehy
Senior Planning Inspector
18th November, 2016.