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Bord  
Pleanála

## Inspector's Report 29N.248553

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<b>Development</b>	Alteration to previously approved application number 3626/16 to change west facing glazing to be clear at first floor level patio balcony with high screen.
<b>Location</b>	14 Belgrove Road, Clontarf, Dublin 3
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2416/17.
<b>Applicants</b>	Bridget Walsh & Jim Keating
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	Bridget Walsh & Jim Keating
<b>Observers</b>	Jacqueline Alberici & Martin Conry
<b>Date of Site Inspection</b>	8 <sup>th</sup> August 2017
<b>Inspector</b>	Dolores McCague

## 1.0 Site Location and Description

- 1.1. The site is located at 14 Belgrove Road, Clontarf, Dublin 3. The property was formerly a single storey detached cottage or bungalow style dwelling, as were those others on the west side of this residential street, which face two storey terraced housing on the opposite side. The dwellings are set back from the road with driveways and some garden space to the front and to the rear have large gardens. The bungalows/cottages are currently in a number of styles with a variety of roof profiles.
- 1.2. Following development, on foot of a previous permission, this is now a two storey dormer dwelling.
- 1.3. The dwelling has a deep plan and the narrow entrance hall widens towards the rear of the house to include a stairway to a small landing, which opens to the rear via a glazed doorway across a raised threshold and step, to an uncovered terrace between the wings of the first floor building, to either side, and glass panelling surrounding the remainder of the area. Most of the glass panels are obscured glass. Two panels, those facing towards the subject garden, are in clear glass. These provide an open aspect from the otherwise enclosed outdoor terrace. At the end of the terrace, at the location immediately adjoining the clear glazing, it is possible to overlook the boundary with the adjoining property to the south. A screen fence which has been provided along the boundary makes it virtually impossible to see anything within the neighbouring site, in any detail. The neighbouring property to the north is screened by the first floor of the subject building.

## 2.0 Proposed Development

- 2.1. The proposed development is the alteration of the previously approved development, application number 3626/16, at the first floor level terrace (patio / balcony), which was to be provided with a high glass screen in opaque glazing, by the retention of two sheets of west facing clear glazing.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to refuse permission for one reason:

The Dublin City Development Plan 2016-2022 states, in Section 16.10.12, that domestic works shall not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight. The clear glazing to the balcony proposed for retention would result in overlooking of the side windows to the single storey rear extension of No 12 Belgrove Road such as to have an adverse impact on the amenities of that dwelling. Retention of this development would cause serious injury to residential amenities and would, therefore, be contrary to the requirements of the current Development Plan and the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- Development Plan policy with regard to domestic works is set out in Section 16.10.12 and Appendix 17.
- One of the main considerations is that such works do not result in an adverse impact on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.
- The amendment the subject of this retention application concerns the west facing glazed screen to the balcony.
- Under 3636/17 the entirety of the enclosure to the balcony was required to be obscure to protect existing amenities.
- There are two forms of overlooking generally accepted – direct overlooking where the window provides a clear view of an adjacent property and indirect or perceived overlooking, where views are at an angle but afford some form of view that diminishes the neighbour's sense of privacy. The third party's rear sunroom has glazing to all three elevations including the north side at a distance of 4.799m from the shared boundary. The position and depth of that

existing extension relative to the clear glazing on the balcony would allow a degree of overlooking of the windows of the sunroom that, while not direct, would have an undue impact on the privacy and amenity of that room.

- Not consistent with the Development Plan or the proper planning and development of the area.

### 3.2.2. Other Technical Reports

Engineering Department – Drainage Division, 3/4/2017, conditions.

### 3.3. Third Party Observations

3.4. A Third Party observation on the file has been read and noted.

## 4.0 Planning History

**3626/16** permission granted for alteration to previously approved application no. 4156/15 to add a first floor level patio balcony with high screens, subject to conditions including no. 6 the terms and conditions of the permission for the original development 4156/15 shall be complied with except as modified by this permission.

The planning report states that the alterations are to add a first floor level patio balcony with screens. The previous planning permission approved an extension comprising the re-construction of the existing roof with a raised ridge height to incorporate dormer windows, two bedrooms a study and bathroom to form a first storey.

The proposal is a 1<sup>st</sup> floor balcony to the rear of the property with a width of 4.17m and a depth of 5.4m. The proposal is set back from the existing rear elevation and is located within the main body of the main dwelling. Access to the balcony is via the existing 1<sup>st</sup> floor hallway and the balcony has a 1.6m high obscure glazed barriers along its southern and western boundary.

Having regard to neighbouring residential amenity and specifically ensuring the proposal does not lead to overlooking or privacy issues, it is considered that the proposal is unlikely to have a detrimental impact. Any future views into neighbouring property from the balcony will be obscured by the 1.6m screen. In addition, the

balcony is set behind the main rear elevational wall and if fitted into the established roof structure and the main body of the dwelling.

It does not detract from the character of the structure and provides a practical alteration providing a more liveable home.

**4156/15** permission granted for an extension comprising the reconstruction of the existing roof with a raised ridge height to incorporate dormer windows, two bedrooms a study and bathroom to form a first storey.

The report states: two bedrooms and a study would be provided and in order to accommodate these the roof would be raised with two dormers provided to the front and one to the rear. In terms of ridge height there is a sizeable range along the street and while this development would increase the ridge height significantly from 5.325m to 7.386m, it would not be out of character with the variety of roof heights along the street. It would also not be detrimental to the visual amenity of the streetscape as might be the case in a more uniform row of houses.

**2931/15** permission granted for a new garden room and lobby to the rear and related minor alterations. The rear single storey hipped roof extension will not be discerned from the public realm. No impacts from the proposed single storey structure upon 3<sup>rd</sup> parties are discerned. The new ground floor windows are more than 1m away from 3<sup>rd</sup> party boundaries

**0233/99** permission granted for alterations and single storey extensions to the existing residential premises comprising widening of site entrance gates and replacement of existing pillars to front boundary enlargement of driveway, dividing gate between front garden and side passageway with canopy behind for bicycle storage, revised internal layout, new front porch, new utility room and kitchen to side with new dining room, living room, bedroom and shower room en-suite to rear; associated works and replacement of existing windows.

12 Belgrove Road

**3039/12** permission granted for a new single storey sun room extension (36 sq m) with 1 no. rooflight, alterations and extension to the existing roof and eaves line and associated site works all to rear.

10 Belgrove Road

**3276/04** permission granted for a new single storey sun room extension and single storey bedroom extension to rear.

## **5.0 Policy Context**

### **5.1. Development Plan**

House extensions - The design of residential extensions should have regard to the amenities of adjoining properties and in particular the need for light and privacy.

Applications for planning permission to extend dwellings will only be granted where the planning authority is satisfied that the proposal will:

Not have an adverse impact on the scale and character of the dwelling.

Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight. (16.10.12).

Extensions should not result in any significant loss of privacy to the residents of adjoining properties. Generally, windows overlooking adjoining properties (such as in a side wall) should be avoided. Where essential, the size of such windows should be kept as small as possible and consideration should be given to the use of high-level windows and/or the use of obscure glazing where the window serves a bathroom or landing. Balconies will only be allowed where they are well screened and do not adversely overlook adjoining properties. The use of the roofs of flat roof extensions as balconies can often lead to problems of overlooking. (appendix 17, item 17.4)

### **5.2. Natural Heritage Designations**

5.3. The South Dublin Bay and River Tolka SPA site code 004024 is the nearest Natura Sites, situated less than 500m away.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The first party appeal against the decision to refuse permission has been submitted by David Moran Architect. The grounds includes:

- The height of the proposed balustrade to the balcony area is such that overlooking would be avoided.
- The principle is that this has the effect of being an external room.
- Class 1 Condition 5 b) and c) is referenced in condition (h) any window above ground level in any such extension shall not be less than 11m from the boundary it faces, where the house is detached and the extension floor area above ground exceeds 12 sq m any window shall not be less than 11m from the boundary it faces. The reason for seeking retention is that the original house has been extended by more than 40 sq m. The boundary that the clear glazing faces is in excess of 50m distant. All the glazing facing the boundary of less than 11m at an angle of 90 degrees is fitted with obscure glazing.
- The Development Plan provides that: windows overlooking adjoining properties (such as in a side wall) should be avoided. Where essential, the size of such windows should be kept as small as possible and consideration should be given to the use of high-level windows and/or the use of obscure glazing where the window serves a bathroom or landing. Balconies will only be allowed where they are well screened and do not adversely overlook adjoining properties. The use of the roofs of flat roof extensions as balconies can often lead to problems of overlooking. The side windows to the balcony as permitted are fitted with obscure glazing in full compliance with the Development Plan.
- The proposed use of screening along the boundary, (correspondence with the adjoining property owner is attached to the grounds), should further increase the levels of privacy.

- The balcony reduces the overlooking from the existing first floor windows in the extension permitted by 5156/15, which permitted a first-floor window less than 11m from the boundary it faced.
- The existing clear glazing faces a boundary in excess of 50m distant and is in excess of 7m from the boundary at right angles and is therefore not reasonably visible and does not unduly affect the privacy of adjoining property.
- The portion of clear glazing is limited and the balcony is largely fitted with obscure glazing, which significantly reduces any previous overlooking from the first-floor windows.
- Dublin City Council have permitted balconies to the rear without special conditions relating to privacy and these are referenced in the grounds.
- A requirement that obscure glazing be provided to the rear facing portions of this proposal would be seriously injurious to the amenity of this property and contrary to the CDP.

## 6.2. Planning Authority Response

- The planning authority have not responded to the grounds of appeal.

## 6.3. Observations

An observation has been received from Jacqueline Alberici & Martin Conry, whose address is the adjoining dwelling to the south. The observation includes:

- The retention of the clear glass would radically adversely impact on the privacy and amenity of their home.
- They attach a photograph, taken from their sun room, of the glaziers fitting clear glass to the balcony. If they can be clearly seen the observers can also.
- The balcony, as built, does not comply with the permission. It should have non-openable obscured glass.



- Some history of the development and their engagement with the architect is outlined, including reference to a trellis that has been erected on top of their wall, to which they consented because they felt they had no choice.

## 7.0 **Assessment**

7.1. There issues which arise in relation to this appeal are: appropriate assessment and overlooking / residential amenity, and the following assessment is dealt with under those headings.

### 7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

### 7.3. **Overlooking / Residential Amenity**

7.4. The third party is concerned that the retention of the clear glazing will allow overlooking of their property and impact on their residential amenity.

7.5. The first party states that a requirement that obscure glazing be provided to the rear facing portions would be seriously injurious to the amenity of their property.

7.6. As previously stated this uncovered terrace area is located between the wings of the first floor building to either side with glass panelling surrounding the remainder of the area. Two panels of glass, those facing towards the subject garden, are in clear glass the remainder are in obscured glazing. The clear panels provide an open aspect from the otherwise enclosed outdoor terrace. It would be possible to overlook the rear of the adjoining property to the south from the end of the terrace, but only at the very end of the terrace where the viewer would equally be visible to those in the adjoining property. However, a screen fence has been erected along the boundary, which makes it virtually impossible to see anything in any detail within the neighbouring site.

- 7.7. I note the first party's argument that the glazed surround reduces overlooking from the existing first floor window in the extension permitted under 5156/15, which permission includes a first-floor window, facing in the direction of the boundary (and c11m therefrom). In the absence of the glazed screen which has been provided as part of the terrace development, overlooking of the adjoining property from this bedroom window would occur, which would be more significant than any overlooking from the end of the terrace.
- 7.8. I note that very limited overlooking is experienced by single storey dwellings side by side, but overlooking is an accepted aspect of two storey dwellings side by side and is not considered unduly impactful when it occurs as oblique views from bedrooms and secondary areas. This first floor development even without the screen fence would have only oblique views of the adjoining property from the extreme end of the terrace and this would not impact unduly on the privacy of the adjoining property. With the screen fence in place there is little if any impact on the privacy of the adjoining property.
- 7.9. I note that the photograph provided by the third party was taken before the screen fence was erected. Although I did not view the development from the neighbouring property, I can state that a similar photograph could not be taken today.
- 7.10. I agree with the first party that a requirement that obscure glazing be provided to the two rear facing panels would seriously impact on the amenity of the terrace and would be unnecessary, since the amenities of the adjoining property are not adversely impacted.

## 8.0 Recommendation

- 8.1. In the light of the above assessment, I recommend that planning be granted, subject to the following conditions and for the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the zoning: Z1 to protect, provide and improve residential amenity, it is considered that subject to the following conditions the proposed development would not adversely impact on the visual or residential amenities of adjoining

property and would improve the residential amenity of the subject property and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 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. Other than the retention of the two panels of clear glazing hereby permitted, the development shall otherwise comply with the terms and conditions of the previous permission 3626/16.

Reason: In the interest of clarity

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Planning Inspector

9<sup>th</sup> August 2017

Appendices

- 1 Photographs
- 2 Extracts from the Dublin City Development Plan 2016-2022