



An
Bord
Pleanála

Inspector's Report PL06D.248564

Development	Retention of dormer window and roof lights at the first floor, over domestic garage.
Location	The Last Straw, Ballycorus Road, Kilternan, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council.
Planning Authority Reg. Ref.	D17B/0115
Applicant(s)	Rizwan Uddin
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First-v-Condition
Appellant(s).	Rizwan Uddin
Date of Site Inspection	25 th July 2017
Inspector	Colin McBride

1.0 Site Location and Description

1.1 The appeal site, which has a stated area of 0.2 hectares, is located off the Ballycorus Road to the east of the village of Kiltarnan, Co. Dublin. The site is a backland site with limited frontage on the Ballycorus Road and is irregular in shape. A two storey dwelling and a detached garage are located on the site. Neither building is visible from Ballycorus Road. The pattern of development on Ballycorus Road consists of large detached dwellings on substantial sites. To the south east of the site is a detached dwelling (Sotte il Monte) and to the south west is also a detached dwelling.

2.0 Proposed Development

2.1. Permission is sought for the retention of a dormer window and roof lights on the roof profile of a domestic garage. The existing garage is a double garage with a first floor level and the proposal relates to retention of four windows on the roof profile, a dormer window and roof light on the northern roof plane and two roof lights on the southern roof plane.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 2 conditions. Conditions of note include...

Condition no. 2: This permission for retention refers solely to the northern elevation dormer window and roof light. Within eight weeks of the date of grant of this permission the two south elevation rooflights shall be removed. Written and photographic confirmation of compliance with this condition shall be submitted to the Planning Authority within ten weeks of the date of the grant of permission.

Reason: In the interests of the residential amenity of the adjoining property and the proper planning and sustainable development of the area.

3.2. Local Authority and External reports

- 3.2.1. Drainage Planning (07/03/17): No objection.
- 3.2.2. Planning report (24/04/17): It was considered that the two windows on the northern plane of the roof are satisfactory, but the two windows on the southern plane would cause undue overlooking. A grant of permission was recommended subject to the conditions outlined above.

4.0 Planning History

- 4.1 PL06D.246941: Permission granted for retention permission for partially constructed detached garage with habitable room to 1st floor and permission to complete construction of detached garage with habitable room to 1st floor.

- 4.2 D15A/0626: Permission granted for partially constructed house previously approved under D08A/0967. Retention sought for (i) alterations to approved house plan with a net increase of 64square metres and consequential alterations as a result of same (ii) alterations to approved detached garage with an additional floor area and consequential alterations to elevations as a result of same. Permission was granted and condition 2 stated that the grant of permission does not include the retention of the detached garage with an additional first floor area and increase in floor area and consequential alterations to elevations as a result of same.

- 4.3 D09A/0027: Permission granted for a house adjacent to previously approved 08A/0967. An extension of duration for that development was extended by D09A/0027E until 27th July 2019.

- 4.4 D08A/0967: Permission granted by Planning Authority for house and garage on site replacing a house that had been destroyed by fire.

5.0 Policy Context

5.1. Development Plan

5.1.1 The relevant Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022.

The site is zoned Objective 'A' with stated objective 'to protect and/or improve residential amenity'.

5.1.2 The site is also located within the boundary of the Kiltarnan/Glenamuck Local Area Plan.

6.0 The Appeal

6.1 Grounds of appeal

6.1.1 A first party appeal has been lodged by MacCabe Durney Barnes on behalf Dr. Rizwan Uddin, The Last Straw, Ballycorus Road, Kiltarnan. The grounds of appeal are as follows...

- The appeal is against the imposition of condition no. 2 omitting the two roof lights on the southern roof plane.
- It is noted that the roof lights in question are located in the slope of the pitched roof and are 2m above the floor level making it difficult to see out of them. It is noted that there is no overlooking of the adjoining property (Sotte il Monte) due to existing mature planting and the location of the roof lights. The windows serve the function of providing natural light and not as a view as the height and angle of the windows does not lend themselves to such. The appellant has included a sectional drawing illustrating the height of the windows.

- The appellant note that the Planning Authority have imposed a condition without justifying or assessing the impact and note that the condition is contrary the Development Management Guidelines.
- The appellant notes that the proposal is consistent with Development Plan policy and the Kiteran Glenamuck Local Area Plan 2013.

6.2 Responses

6.2.1 Response from Dun Laoghaire Rathdown County Council.

- The PA notes that the floor to ceiling height indicated on the sectional drawing submitted with appeal submission appears to be different than that that indicated in the drawings with the original application. It is noted that the Planning Report should be taken account when assessing this appeal.

7.0 Assessment

7.1 At the outset, I wish to point out that following consideration of the documentation on the appeal file and the site location and context, I am satisfied consideration of the proposal on a de novo basis, (that is as if the application had been made to the Board in the first instance), is unwarranted and that it is appropriate to determine the appeal in accordance with the provisions of Section 139 of the Planning and Development Act, 2000 as amended. Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Condition no. 2

7.2 Condition no. 2:

7.2.1 Condition no. 2 states...

This permission for retention refers solely to the northern elevation dormer window and roof light. Within eight weeks of the date of grant of this permission the two south elevation roof lights shall be removed. Written and photographic confirmation of compliance with this condition shall be submitted to the Planning Authority within ten weeks of the date of the grant of permission.

Reason: In the interests of the residential amenity of the adjoining property and the proper planning and sustainable development of the area.

The two windows in question are located on the southern roof plane of the existing garage. Having inspected the site including the interior of the garage it is notable that the two windows are located at least 2m above the finished floor level of the first floor and are high level windows that do not allow for overlooking of the adjoining property. I am not sure what scale the drawings submitted with the application are at or how accurate they are at illustrating the height of the windows. The appellant has submitted a cross section that indicates the lowest level of the glazing in the two windows is 2.108m. Having inspected the interior, I would consider that this height is accurate and the two windows do not facilitate overlooking of the adjoining property and perform the function of providing light to the first floor level.

7.2.2 Having inspected the windows from the adjoining property to the south west (Sotte il Monte), I would note that the windows are not excessive in size and do not facilitate any undue overlooking of the neighbouring property. I would consider that the retention of the two windows as constructed should be permitted.

8.0 Decision

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to REMOVE Condition No 2 and the reasons therefor.

9.0 Reasons and considerations

1. Having regard to the height, size and location of the two roof lights on the southern plane, they would cause no undue overlooking of the adjoining property and their retention would be in accordance with the proper planning and sustainable of the area.

Colin McBride
Planning Inspector

26th July 2017