



An  
Bord  
Pleanála

## Inspector's Report PL06F.248580

### Development

Conversion of attic space to non-habitable space, roof lights to main roof and the installation of a new gable window to the rear of the existing house.

### Location

28 St. Fintan's Rd, Sutton, Dublin13.

### Planning Authority

Fingal County Council.

### Planning Authority Reg. Ref.

F17B/0056.

### Applicant(s)

D. and K. Byrne.

### Type of Application

Permission.

### Planning Authority Decision

Granted with Conditions.

### Type of Appeal

Third Party

### Appellant(s)

D. and A. Talbot.

### Observer(s)

None.

### Date of Site Inspection

24<sup>th</sup> August 2017.

### Inspector

L.W. Howard.

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## 1.0 Site Location and Description

- 1.1. The stated c.0.053ha application site is located within an established residential neighbourhood within Sutton, Dublin 13. The neighbourhood character can generally be described as comprising gable fronted, 2-storey dwellings with flat-roofed, single-storey projections on the western side containing a roof balcony with timber railings.
- 1.2. Itself, the application site (No.28) is located on St. Fintans Road, between St. Fintans Grove and Sheilmartin Drive.
- 1.3. The site contains a gable fronted, 2-storey dwelling characteristic of the area, which is finished in render and roof tiles. There is a first floor door on the western elevation providing access to the side balcony.
- 1.4. The site has a rear garden depth of approximately 28m.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following elements –
  - conversion of the existing attic space into non-habitable space.
  - installation of roof lights to the main roof.
  - installation of a new gable window to the rear of the existing detached 2-storey dwelling.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Planning permission granted, subject to 6no. Conditions.
- 3.1.2. In the context of the 3<sup>rd</sup> party appeal, the following Conditions are considered relevant:

**C3** Required revisions to the proposed development as follows –

- “omit the side panels of the proposed rear window serving the attic and replace with solid wall”.
- “the sill height of the rear attic window shall be sited no greater than 1.2m below the apex of the existing roof”.

- “the roof lights on the eastern roofslope shall be non-openable”.

**C4** Attic space not compliant with Building Regulations regarding ‘habitable standards’, shall not be used for human habitation.

### 3.2. Planning Authority Reports

The report of the Deputy Planning Officer can be summarised as follows :

#### 3.2.1. Development Plan 2017-2023 ‘Policies’ and ‘Objectives’

- Located on lands zoned “RS – Residential”, with the objective to “provide for residential development and protect and improve residential amenity”, the proposed development is acceptable in principle”.

#### 3.2.2. Visual and Residential Amenity

- Whilst the proposed attic level window will provide additional views to rear gardens, views are already available to rear gardens from the 1<sup>st</sup> floor windows and side balconies of houses along St. Fintans Road.  
Therefore, there is an established level of overlooking of rear gardens in this suburban area.
- The proposed window is not considered to afford any greater level of views to the rear garden, than available from the 1<sup>st</sup> floor rear windows of the dwellinghouse.
- The proposed development would increase the perception of overlooking. Accordingly, the concerns of the adjacent neighbour are noted.
- Planning Authority consider that the scale and size of the proposed window in the rear gable is not cognisant of protecting adjacent residential amenity and the perception of privacy.
- Therefore, having regard to existing overlooking to rear gardens, together with the perception of increased overlooking generated by the proposed window, Planning Authority consider it appropriate to reduce the size of the proposed rear attic window to an acceptable level. This reduction to be accessed by way of Condition.
- All roof lights facing the adjacent property to the east, are located high in the roof to minimise overlooking. Roof lights are used to illuminate attic spaces. Therefore, the proposed development is acceptable in principle, in this regard.

- Having regard to “stairwell / landing” as a transitory space, concerns of overlooking by the adjacent 3<sup>rd</sup> party objector into their “stairwell / landing” are not considered as a significant impact. However, in this regard, consider it as appropriate to ensure the roof lights on the eastern roofslope are non-openable in order to prevent views down to the side balcony of No.30 St. Fintans Road. This in order to protect the amenity of the adjacent neighbours.

### 3.2.3. Conclusion

- The proposed development is in keeping with the existing dwelling and the pattern of development locally.
- Subject to compliance with Conditions, the proposed development will not detract from adjoining residential amenity.

### 3.2.4. **Other Technical Reports**

None.

### 3.3. **Prescribed Bodies**

None.

### 3.4. **Third Party Observations**

3.4.1. A single 3<sup>rd</sup> party submission received from the adjacent residents to the east – No.30 St. Fintans Road.

3.4.2. The issues argued included :

- overlooking from proposed rear attic level window onto their rear patio area.
- overlooking from the roof lights to their landing and stairs.

## 4.0 **Planning History**

4.1.1. **Application site** : None.

4.1.2. **Environs** :

**F02A/1050** *No.2 Shielmartin Drive*

Permission granted for attic conversion for storage purposes, including velux windows, and window on gable wall, and conservatory to the rear, *and*

Retention permission refused for a separate chalet containing bedroom en-suite.

Noteworthy, is Condition No.6 of the element granted permission, as follows –

**C6** “That the rear window in the rear elevation serving the attic shall be permanently glazed with obscure glazing.

**Reason :** In the interest of protecting the existing residential amenities.

**F02B/0383** *37 St. Fintans Road*

Permission granted for 2<sup>nd</sup> storey extension over garage and conversion of attic with roof lights

**C5** “The proposed bathroom window on the 1<sup>st</sup> floor rear elevation shall be opaque and reduced in width, so that it is no wider than 1m”.

**Reason :** In the interest of residential amenity.

## 5.0 Policy Context

### 5.1. Fingal Co. Development Plan (2017-2023):

Relevant provisions incl. –

Chapt.11 **Land Use Zoning Objectives :**

11.8 Zoning Objectives, Vision and Use Classes

Zoning Objective “RS” Residential

Objective : provide for residential development and protect and improve residential amenity.

Vision : to “ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity”.

Chapt.12 **Development Management Standards :**

12.4 Design Criteria for Residential Development  
(copy attached).

## 5.2. Natural Heritage Designations

None.

## 6.0 The Appeal

### 6.1. 3<sup>rd</sup> Party Grounds of Appeal

#### Introduction

- 6.1.1. No objection to the actual conversion of the attic area (ie. 34m<sup>2</sup> existing attic space to a non-habitable room). However, they have major concern regarding consequent loss of residential amenity due to loss of privacy and overlooking.
- 6.1.2. Specifically in this regard, the 3<sup>rd</sup> party appellants argue that the large proposed gable window will overlook their rear patio area, and that the roof lights will overlook their 1<sup>st</sup> floor landing area.
- 6.1.3. The 3<sup>rd</sup> party appellants hope their serious concerns can be addressed via this appeal.

#### Planning Authority Decision

- 6.1.4. Specifically, Condition No.3 requires the following revision :
  - 3(i) omission of the side panels to the gable window, and replacement with solid block work.
  - 3(ii) the rear window sill-height to be no greater than 1.2m below the apex of the existing roof.
  - 3(iii) the roof lights on the eastern roof slope to be non-openable.
- 6.1.5. However, these revisions do not go far enough to protect their amenity and privacy.
- 6.1.6. Specially, the Planning Authority failed to fully accept the impact the gable window would have on the privacy of their rear patio area.

#### Zoning Objective

6.1.7. Emphasise the core vision statement of the RS zoning objective is “to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity”.

### **Appeal Grounds**

#### 6.1.8. Rear gable window

- Proposed rear gable window is too big and is out of proportion with the scale of the rear façade and the existing windows.
- No matter the window size, direct overlooking from this window space of their rear private patio will result.
- Located at a higher level than the applicants existing 1<sup>st</sup> floor rear bedroom windows, from which potential for overlooking is mitigated by the 3<sup>rd</sup> parties existing single storey utility room positioned against the shared lateral property boundary, direct overlooking will be possible.
- The Planning Authority were unsuccessful in their attempt to address the threat of overlooking, particularly where they had regard to this threat as “a perception rather than a tangible and measureable adverse impact”.
- Condition No.3, whilst an attempt to protect adjacent amenity, “will only marginally mitigate the overlooking impact”.
- In addition, request further mitigation measures be included with Condition No.3 as follows :
  - The window to have opaque glazing
  - The window to be non-openable

#### 6.1.9. Roof lights on the eastern roof slope

- Contrary to the Planning Authority view of the 3<sup>rd</sup> party appellants 1<sup>st</sup> floor landing and stairs as transitory space and not significantly affected by the proposed development, argue that these spaces are an integral part of their dwelling house and deserving of full amenity protection, including privacy.
- The plans submitted indicate the sills at 1.4m from the floor. At this level, the average adult could look out the window and overlook their landing.
- Argue that in order to prevent such overlooking, the use of opaque glazing in all proposed windows would eliminate the 3<sup>rd</sup> party appellants concerns. This would prevent overlooking, and the perception of overlooking at this location.



Reciprocal advantage for the applicants will also result, as they will not be overlooked from the 3<sup>rd</sup> party appellants landing or near side balcony. Accordingly, privacy is preserved for both parties.

### **Conclusion**

- 6.1.10. The 3<sup>rd</sup> party appellants have no objection in principle, to the proposed conversion of the existing attic space for non-habitable purposes.
- 6.1.11. Their primary concern is the serious threat of loss of residential amenity, especially their privacy, consequent of overlooking of their established rear private patio.
- 6.1.12. Request revision to Condition No. 3 as follows –
- Rear gable window to have opaque glazing and should not be openable.
  - Re. the roof lights on the eastern roof slope, request that these be non-openable, with opaque glazing to avoid overlooking.

## **6.2. Applicant Response**

### **Introduction**

- 6.2.1. The Planning Authority decided to grant planning permission for the proposed development, subject to Conditions. Condition No.3 requires revisions primarily involving the reduction in size of the rear gable window and the non-opening of the velux roof lights facing the 3<sup>rd</sup> party appellant's property.
- 6.2.2. The applicants believe this to be a fair and just compromise.
- 6.2.3. Whilst having no objection to the actual conversion of the attic area, the 3<sup>rd</sup> party appellants remain concerned regarding argued loss of residential amenity due to loss of privacy and overlooking. To this end, they argue that Condition No.3 requires further revision.
- 6.2.4. The applicants response is set out below.

### **Roof Lights**

- 6.2.5. Numerous examples of velux roof lights of similar or larger size to that proposed, are present in the local neighbourhood. This was noted by the Planning Authority in their considerations of the proposed development, concluding the proposed roof lights as acceptable in principle.

- 6.2.6. No precedent or relevant planning application was referenced by the 3<sup>rd</sup> party appellants to support opaque glazing to roof light windows. The applicants are not aware of any precedent locally in this regard.
- 6.2.7. Point out that no such Condition requiring opaque glazing was attached to the Planning Authority decision under F02A/1050 to grant retention permission of the velux windows, in that instance.
- 6.2.8. Emphasise that consideration was given by the applicants to any potential overlooking of adjacent properties from the roof light windows, and appropriate mitigation thereof, by locating them high in the roof line. This was acknowledged and referenced by the Planning Authority who commented that their placement high in the roof minimises overlooking.
- 6.2.9. Views from similar roof light windows locally are demonstrated in the attached photographs 2 and 3 included with the response submission. The natural upward outlook through the roof lights, as placed in the roof, result in the 3<sup>rd</sup> party appellants 1<sup>st</sup> floor landing windows not being visible from the applicants proposed attic space.

### **Privacy**

- 6.2.10. The primary direct views from the proposed rear attic level window are of the applicants rear garden and across Dublin Bay beyond.
- 6.2.11. Recent addition of 150mm of external EPS insulation to the applicants property has resulted in the existing windows being further recessed. Consequently, the lateral line of sight from the rear windows of the applicants property has been reduced.
- 6.2.12. The Planning Authority had considered regard to the overlooking concerns of the 3<sup>rd</sup> party appellants, in their decision to grant planning permission subject to Conditions specifying further mitigation revision.
- 6.2.13. The applicants accept the Conditions attached by the Planning Authority to their decision to grant planning permission.

### **Precedent**

- 6.2.14. The applicants proposed development as not such as will set a precedent for other development works locally.
- 6.2.15. Rather, several examples of similar and comparable development works to existing houses locally, already exist (see photographs, diagrams and aerial photographs

included). These provide a precedent reference for the applicants proposed development.

6.2.16. Under F02B at No. 2 Shielmartin Drive, the Condition requiring opaque glazing is not an appropriate reference. Firstly, it is the only case amongst many locally, that required opaque glazing to one of the windows only. Secondly, the spatial context and orientation of the houses going around the corner, are very different from that existing between the current application site and No.30 St. Fintans Road. Specifically, the relevant rear gable window to No.2 Shielmartin Drive directly overlooks the landing window of No. 4 Shielmartin Drive. This does not exist at the application site.

### **Conclusion**

6.2.17. Having regard to –

- the considerable precedent for similar development locally,
  - the Conditions attached by the Planning Authority to their decision to grant planning permission, and to
  - the applicants response to the 3<sup>rd</sup> party appellants grounds of appeal,
- the applicants request that An Bord Pleanala uphold the decision of Fingal County Council in granting permission for the proposed development.

### **6.3. Planning Authority Response**

6.3.1. Affirm the Planning Authority considerations, as set out in the planning officers report.

6.3.2. The Planning Authority remains of the view that the proposed development will not detract from adjoining residential amenity, subject to compliance with the Conditions, and particularly Condition No.3 of **F17B/0056**.

6.3.3. Request that the Board uphold the decision of the Planning Authority.

### **6.4. Observations**

None.

## 6.5. Further Responses

None.

## 7.0 Assessment

7.1. I have examined the file and available planning history, considered the prevailing local and national policies, inspected the site and assessed the proposal and all of the submissions. The following assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The relevant planning issues relate to :

- Principle and Location of the proposed development
- Visual Amenity Impact / Streetscape
- Residential Amenity Impact
- Appropriate Assessment.

### 7.2. Principle and Location of the proposed development

- 7.2.1. The site is zoned “RS – Residential”, with the objective to provide for residential development and protect and improve residential amenity. The applicable zoning matrix designates residential land use as being permitted in principle within the zone. The “RS – Residential” zoning objective seeks to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.
- 7.2.2. Accordingly, the proposed development is considered as acceptable. However, more detailed consideration is appropriate regarding potential threat to adjacent residential amenity.

### 7.3. Visual Amenity Impact / Streetscape

- 7.3.1. I have taken note of the established, contextual scale and pattern of residential development along St. Fintans Road, passed the application site. What is clear in my view, is that as one moves along the road, and noting the proposed development works being self-contained within the roof, and the only significant physical manifestation being the new rear gable window, no reasonable visibility is possible at

all, of the rear of any of the houses, and including and specifically the rear of No.28 St. Fintans Road.

- 7.3.2. Notwithstanding this insitu restriction of visibility of the proposed gable window to the rear and the corresponding rear gardens of nearby properties, the Planning Authority have attached Condition No. 3 (i) requiring the omission of the proposed side panels to the gable window, and their replacement with solid block work, and 3(ii) requiring that the new rear window sill height be no greater than 1.2m below the apex of the existing roof, in the interests of preservation of existing visual amenity.
- 7.3.3. I note the applicants clearly state that they accept the Conditions attached by the Planning Authority. These also directly address the 3<sup>rd</sup> party appellants concerns that as proposed, the rear gable window is too big and out of proportion with the scale of the rear façade and the existing windows.
- 7.3.4. Further, located within each of the roof slopes, I do not believe that the proposed roof lights will be obviously and significantly visible from the St. Fintans Road frontage. Similarly, no disproportionate negative visual amenity impact will result from the proposed roof lights.
- 7.3.5. Accordingly, I believe that subject to the inclusion of appropriate Conditions as attached by the Planning Authority to their decision to grant planning permission, the proposed development will have no disproportionate impact on the established character & streetscape of St. Fintans Road generally, and of adjacent properties specifically, and subject to relevant Conditions, would be in accordance with the proper planning and sustainable development of the area

#### **7.4. Residential Amenity Impact**

- 7.4.1. Having regard to all of the information available, to my own observations made at the time of physical inspection, and noting the 3<sup>rd</sup> party appellants primary concerns in this regard, I am of the view that the proposed domestic conversion of the attic space to non-habitable space and associated development, located at No.28 St. Fintans Road, will have no serious, or disproportionate negative impact on the prevailing residential amenity in the area generally, and the adjacent amenity at No.30 St. Fintans Road (ie. the 3<sup>rd</sup> party appellants) specifically.
- 7.4.2. In this regard, and having reference to the 'RS – Residential' zoning objective and to Section 12.4 – 'Design Criteria for Residential Development of the County

Development Plan 2017-2023, I have given consideration to potential threats to residential amenity as follows :

- Visual Obtrusion : see as discussed at 7.3 above.
- Loss of Natural Light or Overshadowing : Being contained entirely within the roof of the existing house at No.28 St. Fintans Road, no change will occur from the existing contextual relationship between the two houses. Accordingly, no threat of overshadowing or loss of natural light will result consequent of the proposed development.
- Overlooking / Privacy Loss : This is the primary objection of the 3<sup>rd</sup> party appellants, particularly as far as the proposed rear attic level gable window relates to their rear patio, and the proposed roof lights located in the east facing roof slope of the applicants house, to their internal 1<sup>st</sup> floor landing and stairwell.

Having regard to all of the information available, and to my own observations at the time of physical inspection, I share the views made by the Planning Authority that whilst marginal additional views would be possible from the new attic level window to the rear gardens, comprehensive rear 180° views are already available from the applicants rear 1<sup>st</sup> floor windows, as well as to a lesser degree their side balcony.

I therefore agree that at present, there is certainly an established level of overlooking of the rear gardens in this vicinity.

I concur with the view that the new rear attic level window will not enable any greater level of views to the rear garden, than that currently available from the applicants rear 1<sup>st</sup> floor windows.

In this regard I believe it necessary to emphasise that, by the 3<sup>rd</sup> party appellants own admission, the attic conversion will be non-habitable.

In as much as the new gable end attic level window, understandably increases the potential for subjective perception of overlooking, so I believe will the Planning Authority's Condition 3(i) and 3(ii) requiring the reduction of the size and scale of the proposed rear attic window to an acceptable level, positively contribute to the reasonable mitigation of this concern of loss of privacy within their rear patio, by the 3<sup>rd</sup> party appellants.

Similarly, I believe that the 3<sup>rd</sup> party appellants concerns regarding loss of privacy within their 1<sup>st</sup> floor landing area and stairs, from argued overlooking from the new roof lights proposed located high within the applicants east facing roof slope, will be reasonably and satisfactorily mitigated by the revision required by Condition 3(iii) that these roof lights be non-openable.

Accordingly, I do not share the 3<sup>rd</sup> party appellants argument that the Planning Authority's Conditions 3(i), 3(ii) and 3(iii), do not go far enough to protect their amenity and privacy.

In my view, with the revisions required by the Planning Authority at 3(i), 3(ii) and 3(iii), the proposed development will certainly, and satisfactorily achieve the minimal impact goal set out in the core vision statement of the 'RS – Residential' zoning objective.

- Noise : No increase at all above that currently characterising domestic residential use of the application site, must reasonably be anticipated.
- Private Amenity / Leisure Space : Both adequate and usable private amenity space has been retained to the rear of the application site, nor will serious negative impacts result on adjacent rear domestic amenity spaces, in compliance with Objectives PM65 and DMS87.
- Separation Distances between Side Walls of Houses : Adequate separation distances are retained between the applicants and 3<sup>rd</sup> party appellants houses respectively, in compliance with Objectives DMS28 and DMS29, enabling for adequate maintenance and access.
- In Situ Views / Outlooks : No designated views exist with respect to the collection of domestic dwellinghouses comprising St. Fintans Road. .
- On-Site Car Parking : Adequate onsite car parking space exists, in compliance with County Development Plan 2017 Standards. No increased need for such space is generated by the proposed development.
- Access and Traffic Safety : The existing dwellinghouse is already served with access onto St. Fintans Road. No additional traffic generation will result from the proposed development.

7.4.3. I do acknowledge the potential for negative impact of construction activity on particularly adjacent contextual residential amenity, whilst albeit minor domestic site works and construction activity are on the go. However, I consider that these

impacts are only temporary, are to facilitate the completion of the proposed development, and certainly cannot be regarded as unique to this modest domestic development. Further, I consider that given these impacts are predictable and to be expected, they can be properly and appropriately minimised and mitigated by the attachment of appropriate Conditions to a grant of permission, should the Board be mindful to grant permission, and deem such mitigation of negative impact necessary.

- 7.4.4. Accordingly, I believe the proposed domestic conversion of attic space to non-habitable space, and associated development at No.28 St. Fintans Road, is satisfactorily compliant with the 'RS – Zoning Objective' and Section 12.4 – 'Design Criteria for Residential Development of the County Development Plan 2017-2023, and subject to the Conditions set out below, would be in accordance with the proper planning and sustainable development of the area.

## **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development for retention, to the location of the site within a serviced urban environment, and to the separation distance to any European site, 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.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission be granted for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

- 9.1. Having regard to the zoning Objective "RS - Residential" for the area as set out in the Fingal County Development Plan 2017-2023 and the pattern of residential development in the area, it is considered that, subject to compliance with the Conditions set out below, the proposed retention of development would be in accordance with the provisions of the Development Plan, would not seriously injure the amenities of the St. Fintans Road neighbourhood or of property in the vicinity,



would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed retention of development would, therefore, 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. The proposed development shall be amended as follows :
  - (a) omit the side panels of the proposed rear window serving the attic and replace with solid wall
  - (b) the sill height of the rear attic window shall be sited no greater than 1.2m below the apex of the existing roof
  - (c) the roof lights on the eastern roofslope shall be non-openable

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenity.

3. Any attic floorspace not compliant with Building Regulations in relation to habitable standards shall not be used for human habitation.

**Reason:** To clarify the extent of the permission.

4. The existing dwelling and attic conversion, shall be occupied and used as a single residential unit, apart from such use as may be exempted development for the purposes of the Planning and Development Regulations 2001 (as amended).

**Reason :** In the interest of clarity and to restrict the use of the extension in the interest of residential amenity.

5. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, prevention of spillage or deposition of clay, rubble or other debris on adjoining roads during the course of the works, and off-site disposal of construction / demolition waste.

**Reason:** In the interests of public safety and residential amenity.

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L.W. Howard  
Planning Inspector

31<sup>st</sup> August 2017