



An
Bord
Pleanála

Inspector's Report PL06F.249115

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| Development | Retention of (a) 4m wide dormer & (b) retention of existing dormer ridge height to previously approved planning application for the conversion of attic space to storage space (Reg.Ref.F16B/0396) |
| Location | 26 Glen Ellen Walk, Swords, Co. Dublin |
| Planning Authority | Fingal County Council |
| Planning Authority Reg. Ref. | F17B/0144 |
| Applicant(s) | Mamtaz Akhtar |
| Type of Application | Retention permission |
| Planning Authority Decision | Refuse Permission |
| Type of Appeal | First Party |
| Appellant | Mamtaz Akhtar |
| Observer(s) | None |
| Date of Site Inspection | 20 th December 2017 |
| Inspector | LW Howard |

1.0 Site Location and Description

- 1.1. Glen Ellan Walk is a roughly 'S' shaped cul-de-sac within the greater Glen Ellan Housing Development, located within west-Swords, North Co. Dublin.
- 1.2. The cul-de-sac consists of a mix of semi-detached and detached dwellings, located roughly within the southwest corner of the Glen Ellan Estate, and adjacent the intersection of the R125 Rathbeale Road to Ashbourne, with Glen Ellan Road.
- 1.3. The application site is one of the sets of pairs of semi-detached dwellings, and is south facing over an area of public open space.

2.0 Proposed Development

- 2.1. Proposed retention of :
 - a 4m wide dormer, and
 - the existing dormer ridge height to previously approved planning application for the conversion of attic space to storage space (ie. **Reg.Ref.No. F16B/0346**)

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse 'retention' permission for two stated refusal reasons as follows :
 1. The development would contravene materially Condition No.2 attached to an existing permission for development – **Reg.Ref.No.F16B/0346**.
 2. The dormer extension, by reason of its scale and non-subordinate relationship to the existing roof structure would fail to read as an ancillary element to the existing dwelling, and would seriously injure the amenities of property in the vicinity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The key planning issues considered as follows -

Difference from the permitted development under **Reg.Ref.No.F16B/0346** :

- Condition No.2 required the applicant to submit revised plans / drawings, “for written agreement”, demonstrating :
 - dormer extension roof ridgeline 300mm below rood ridge of the existing house,
 - width of dormer reduced to maximum of 3m, and
 - 1no. window only (glazed area of 1m X 1m).
- **F16B/0346/C1/2** received on 23/05/2017. Whilst drawing appeared to indicate compliance, a site visit undertaken indicated otherwise.
- Development on site had commenced, at variance with the submitted plans.
- Warning letter issued on 18/05/2017.
- Current application received on 13/06/2017, in response to the warning letter.
- Acknowledge correspondence from the ‘agent’ and Cllr. Newman, setting out history and status of development to date.
- Confirm development on site continued following receipt of the warning letter.
- Applicant references other similar development locally within Glen Ellan. The Planning Authority notes these may not be in compliance with their grant of permission.
- Planning Authority distinguishes also, that a significant number have been constructed fully in accordance with a Condition similar to Condition No.2 attached to the applicant’s permission.
- Planning Authority notes the issues raised by the applicant in mitigation. However, the applicant did not appeal the decision as amended by way of Condition No.2. The onus is on the applicant / ‘agent’ to communicate any changes to the builder.

Impact on the Amenity of the Area :

- retention of the dormer / attic conversion will not negatively impact adjoining properties by way of :
 - overlooking – loss of privacy
 - overshadowing – loss of daylight

- as constructed, the dormer is considered to be visually unacceptable, and as having a negative impact on the visual amenity of the area.
- Condition No.2 was attached to the grant of permission, in order to :
 - overcome issues if visual concern, and
 - ensure consistency with similar applications throughout the North Swords area.
- No 1st party appeal was lodged against Condition No.2.
- The setting down of roof ridges of similar extensions has been established by An Bord Pleanala. Examples to be seen in the ‘planning history’ section of the report.
- The dormer / attic conversion :
 - does not comply with Condition No.2 of **F16A/0346**,
 - would have a negative impact on the visual amenity of the area, and
 - would set an undesirable precedent for similar developments in the area.

Planning Authority Comment on Received Reports :

- Both the ‘Water Services Planning Section’ and ‘Irish Water’ report No Objection to the proposed retention of development, subject to Conditions.

Conclusion :

- Whilst permission was granted to the applicant under **F16B/0346** for the conversion of the attic and the provision of a ‘dormer’ to the side roof profile, at the time of assessment, the dormer was considered to be excessive in scale. Consequently, the dormer element was Conditioned to be appropriately reduced to be subordinate to the main body / roof of the house.
- The applicant has constructed the dormer, at variance with Condition No.2, and now has applied for retention permission of the dormer. This is not acceptable. As constructed, the dormer –
 - would be visually obtrusive,
 - would be contrary to Condition No.2 of **F16B/0346**, and
 - would set an undesirable precedent for similar developments.
- Retention permission to be refused for the dormer, as constructed.

3.2.2. Other Technical Reports

Water Services Section No Objection, subject to Conditions

3.3. Prescribed Bodies

Irish Water No objection, subject to Conditions

3.4. Third Party Observations

None

4.0 Planning History

Relevant planning history on the application site :

F16B/0346 Permission granted to M. Akhtar (current applicant) for 'conversion of an attic space to storage space with a dormer window to the hipped roof elevation and 1no. roof-light to the front elevation', at 26 Glen Ellan Walk, Swords, Co. Dublin, subject to 8no. Conditions.

In the context of the current application, Condition No.2 is relevant as follows :

C2 *Prior to the commencement of development revised plans, elevations and cross-sections shall be submitted for the written agreement of the Planning Authority demonstrating the following:*

- (a) The roof ridge line of the dormer extension shall be set 300mm below the roof ridge of the existing house.*
- (b) The width of the dormer shall be reduced to a maximum of 3m.*
- (c) The dormer shall be fitted with 1no. window, with a glazed area of 1m in width by 1m in height, which shall be fitted with obscured glazing. The use of film is not acceptable.*

Reason : *In the interest of consistency, and the proper planning and sustainable development of the area.*

Relevant planning history within the broader contextual Glen Ellan residential estate :

F15B/0259 Permission granted to C. Reynolds for 'A. Attic conversion incorporating dormer extension to side elevation, and B. All associated site works', at 7 Glen Ellan Walk, Swords, Co. Dublin, subject to 8no. Conditions.

In the context of the current application, Condition No.2 is relevant as follows :

C2 *Prior to the commencement of development revised plans, elevations and cross-sections shall be submitted for the written agreement of the Planning Authority demonstrating the following:*

- (a) *The roof ridge line of the dormer extension shall be set 300mm below the roof ridge of the existing house.*
- (b) *The width of the dormer shall be reduced to a maximum of 3m.*
- (c) *The dormer shall be fitted with 1no. window, with a glazed area of 1m in width by 1m in height, which shall be fitted with obscured glazing. The use of film is not acceptable.*

Reason : *In the interest of consistency, and the proper planning and sustainable development of the area.*

F10B/0219 Permission granted to P. & M. Lynch for 'conversion of an attic space to storage space with the construction of a dormer extension to hipped roof and for the provision of 2no. roof-lights to the rear roof elevation'', at No.23 Glen Ellan Walk, Swords, Co. Dublin, subject to 8no. Conditions.

In the context of the current application, consequent of the 1st party appeal lodged against Condition No.2 under **PL06F.237844**, and the

Boards 'Order' to amend Condition No.2(b) thereof, the wording of Condition No.2 read as follows :

C2 *Prior to the commencement of the development the Developer shall submit for the written agreement of the Planning Authority revised plans at scale not less than 1:200 to demonstrate the following amendments :*

- (a) The Developer shall amend the roof profile of the dormer structure so that it reads as an ancillary element to the main roof structure. In this regard, the Developer shall reduce the ridge height of the dormer structure to be lower than the ridge height of the main roof profile.*
- (b) The dormer structure shall have a maximum height of two metres and a maximum width of three metres.*
- (c) The dormer window shall be of permanent obscured glazing. The use of film is not acceptable. Development shall not commence in advance of the written agreement of the Planning Authority being received with regard to the amendments above.*

Reason : *In the interests of visual amenity and the proper planning and sustainable development of the area.*

5.0 Policy Context

5.1. Fingal County Development Plan (2017-2023)

Relevant provisions incl. –

Ch3 Placemaking

3.4 Sustainable Design and Standards

Extensions to Dwellings

Objective PM46 Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.

Ch11 Land Use Zoning Objectives

Zoning Objective “RS” Residential

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

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

Use Classes related to Zoning Objective

Permitted in Principle incl. – ‘Residential’

(see Map – Fingal Co. Dev. Plan 2017 Land Use Zoning Objectives).

5.2. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Subsequent to the decision to grant planning permission, the applicant appointed a builder, who had done similar work locally.
- 6.1.2. Unknown to the applicant, the builder commenced work from the planning drawings. The builder did not have regard to the Conditions attached to the grant of planning permission.
- 6.1.3. Halfway through the project, the builders contract with the applicant was terminated.
- 6.1.4. A new builder was appointed to complete the project.
- 6.1.5. At this time applicant received an ‘enforcement’ letter from Council, notifying that the width and height of the dormer were not in accordance with the grant of planning permission.
- 6.1.6. The applicant and family are not familiar with the Irish planning system. They presumed that all times construction works were being undertaken completely in accordance with their planning permission.
- 6.1.7. Request that the current application for ‘retention’ permission be granted, for the following reasons :
 - the ridge height does not exceed the height of the existing house.

- the width difference of the hip dormer (4m instead of 3m) is not noticeable from the street. Nor is it visually obtrusive on neighbours.
- there were no 3rd party objections or observations to the original application, or in response to the current application for 'retention'.
- within the Glen Ellan Estate, there are six attic conversions in total. Five of these have a continuous ridge line, and dormers wider than 3m.
- Local TD's and Council Councillors support the 'retention' application.
- Forced compliance and consequent part demolition to achieve such compliance will place significant financial and emotional burden on the applicant and family. This is especially so, when at all times they believed their construction works were in compliance with the planning permission granted.

6.1.8. Applicant requests –

- that common sense prevail in consideration of their application for 'retention' permission, and
- that the Board grant the 'retention' permission for the conversion in its present form.

6.2. Planning Authority Response

- 6.2.1. The proposed development was assessed having regard to the history of similar applications in the local area, together with the decision by the Board under **Reg.Ref.No.PL06F.237844**
- 6.2.2. In the interest of consistency, similar applications in the Swords area require the width of the Dormer to not exceed three metres in width, and the roof ridge to be 300mm below that of the existing roof ridgeline.
- 6.2.3. Besides ensuring consistency, the Planning Authority considers that in the interest of good design practice, new dormers should be subordinate to the existing roof profile, and not comprise an addition.
- 6.2.4. Request that the Board uphold the decision of the Planning Authority.
- 6.2.5. However, were permission to be granted, request that a Financial Contribution be applied in accordance with Council's Section 48 Contribution Scheme, and in particular Section 10(ii)

6.3. **Observations**

None.

6.4. **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 the surrounding Glen Ellan residential estate, 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
- As Built difference from the Development permitted under – **F16B/0346**
- Visual Amenity Impact / Local Residential 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.

7.3. **As Built difference from the Development permitted under – F16B/0346**

7.3.1. Under **F16B/0346**, Condition No.2 required the applicant to submit revised plans / drawings, “for written agreement”, demonstrating :

- dormer extension roof ridgeline 300mm below rood ridge of the existing house,
- width of dormer reduced to maximum of 3m, and
- 1no. window only (glazed area of 1m X 1m).

7.3.2. Whilst I note the Planning Authority's acknowledgement that drawings received under **F16B/0396/C1/2** appeared to indicate compliance with the permission granted, consequent physical inspection determined that this was not the case. In fact, construction at No.26 had proceeded without regard to Condition No.2(a) – (c) particularly, which were intended by the Planning Authority to significantly reduce the height, scale and bulk of the proposed dormer extension at that time, to be comparable with other similar development locally, thereby ensuring consistency in the pattern of development in the area, whereby new dormers were subordinate to the existing roof profile, and not comprise as an addition.

7.3.3. I note further that notwithstanding receipt by the applicant of an 'enforcement' letter from the Planning Authority, notifying that the width and height of the dormer were not compliant with the permission granted under **F16B/0346**, the applicant did not halt construction works at No.26. Rather, the applicant proceeded with completion of the project as proposed.

7.3.4. Whilst noting the issues motivated by the applicant, in mitigation of their current circumstances, and now requiring an application for 'retention' permission of the as completed dormer, I share the view expressed by the Planning Authority that responsibility rests with the applicant, and cannot be abdicated to their builder or similar person. In this regard, the onus was on the applicant, or their agent, in receipt of documentation from the Planning Authority, if the applicant is so unfamiliar with the planning system, to have brought works to a halt at the time of receipt of the 'enforcement' letter, in order to review the status of the project and determine the way forward.

One option available to the applicant was to appeal the Planning Authority decision, as amended by way of Condition No.2. On the information available it appears that the 4-week window within which to lodge an appeal had passed. Therefore, this potential remedy was not available to the applicant. Having decided to proceed with the completion of the project, contrary to the grant of planning permission, the only

remedy available to the applicant was to apply for 'retention' permission, which they have clearly done.

- 7.3.5. In motivating the case for 'retention' permission, the applicant draws reference to several other completed dormer developments within the broader Glen Ellan Estate. Having inspected the Estate, I confirm that this is the case (see attached photographs). Within these, the applicant draws reference to the fact that a number of these "have continuous ridge line, and dormers wider than 3m". I confirm that such examples do exist. In fact, their height, scale, bulk and appearances were very similar to that completed at the applicant's property - No.26 Glen Ellan Walk. I understand that the applicant draws these references to existing comparable dormer type development locally as precedents, in favour of their application for 'retention' permission.
- 7.3.6. In response, I note the explanation of the approach undertaken by the Planning Authority, of their assessment both of the original application for planning permission under **F16B/0346**, and the current application for 'retention' permission. The Planning Authority clarify that this assessment was made having regard to the history of similar applications locally, together with the decision by the Board under **PL06F.237844** in terms of which the Board attached a Condition ensuring the height and width of the dormer extension at No.23 Glen Ellan Walk would be consistent with the comparable permissions granted by the Planning Authority locally.
- 7.3.7. The Planning Authority clarify that in the interest of consistency similar applications across the Swords area, inclusive of the Glen Ellan Estate, require the width of the dormer to not exceed 3m in width, and that the roof ridge be 300mm below that of the existing roof ridgeline of the house. The Planning Authority explain further that besides ensuring consistency, in the interest of good house design practice, new dormers should be subordinate to the existing roof profile of the house, and not comprise as an addition. I accept this approach to development management of dormer extensions within the jurisdiction to be reasonable, and I note its application at least over the last 10years.
- 7.3.8. So therefore, whereas the applicant draws strong reference to other similarly completed dormer extensions locally within Glen Ellan as both precedent and contributing to a pattern of development locally, I rather accept the consideration by the Planning Authority as reasonable, that these completed dormer extensions themselves might not be in compliance with their respective grants of planning

permission. Having been brought to light under the current application, the prospect may in fact exist or follow up by the Planning Authority.

The Planning Authority distinguishes further, that a significant number of domestic dormer extensions locally within Glen Ellan, have in fact been constructed fully in accordance with a Condition attached to the relevant permission at the time, similar to Condition No.2 attached to the applicant's planning permission.

Similarly, the Board's revision of Condition No.2(b) under **PL06F.237844** ensured that the height and width of the dormer extension at No.23 Glen Ellan Walk would be consistent with both the comparable permissions granted by the Planning Authority locally (ie. a step-down roof ridgeline and a maximum 3m width), as well as the Planning Authority's approach to the management of such development across Swords.

- 7.3.9. Having regard to all of the above, I am of the view that the Planning Authority's refusal reason no.1 remain.

7.4. **Visual Amenity Impact / Local Residential Streetscape**

- 7.4.1. The distinct sense of place of this Glen Ellan Walk residential precinct is clearly influenced by the uniformity and repetitiveness in architectural style, design, and general finishing with respect to materials and colouring, all set in a local topographical and environmental context. Having regard to this distinctive aesthetic character and associated visual amenity, I believe in concurrence with the Planning Authority, that the proposed retention of development, as built (ie. Extension of the existing house roof ridge height / line, and 4m wide dormer), would be inconsistent with the established pattern of the residential roofline along Glen Ellan Walk, and consequently negatively impact the existing residential streetscape from a visual perspective. The resultant change in bulk and mass of the roof at No.26 to accommodate the proposed dormer, from that permitted under **F16B/0346**, subject to Condition No.2, is overbearing on the common scale and uniformity of the immediate adjacent residents and the local residential precinct in context.
- 7.4.2. In my view therefore, retention of the existing dormer, as built, would be contrary to the "RS – Residential" zoning objective, and to the proper planning and sustainable development of the area.

7.5. **Residential Amenity Impact**

- 7.5.1. I share the applicants view that ‘retention’ of the dormer / attic conversion at No.26, will not negatively impact adjoining properties by way of overlooking (loss of privacy), and overshadowing (loss of daylight).
- 7.5.2. However, as constructed, and having regard to its prominently visibility from the well trafficked R125, I consider the dormer to be visually unacceptable, and as having a negative impact on the visual amenity of the area. In this regard, I note and understand that Condition No.2 was attached to the grant of permission, in order to overcome issues of visual concern, and to ensure consistency with similar applications throughout the North Swords area.
- 7.5.3. Accordingly, I share the conclusion drawn by the Planning Authority, that the completed dormer extension at No.26 Glen Ellan Walk, proposed for ‘retention’ permission, does not comply with Condition No.2 of F16B/0346, would have a negative impact on the visual amenity of the area, and would set an undesirable precedent for similar developments in the area.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and modest scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance and absence of a clear direct pathway 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 ‘retention’ permission be refused for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

1. The ‘retention’ of completed development, as proposed, would contravene materially a Condition attached to an existing permission for development, being Condition No.2 of **F16B/0346**.

2. The proposed 'retention' of completed development at No.26 Glen Ellan Walk, by reason of its height, scale and bulk, would be out of character with existing residential properties in the vicinity, and would set a precedent for further inappropriate development in the vicinity of the application site. The proposed development would, therefore, seriously injure the visual amenities of the area, and be contrary to the proper planning and sustainable development of the area.

L. W. Howard
Planning Inspector

21st December 2017