



An
Bord
Pleanála

Inspector's Report ABP-301752-18

Development	RETENTION: To retain existing rear bedroom window to north-east elevation.
Location	75 Emmet Road, Inchicore, Dublin 8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2464/18
Applicants	Conor & Christine Igoe
Type of Application	Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellants	Conor & Christine Igoe
Date of Site Inspection	13 July 2018
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at 75 Emmet Road, Inchicore, Dublin 8, along the busy route, the R810, from High St/Thomas Street via Old Kilmainham to Inchicore. The site is part of a terrace of houses to the north of the road and the site is orientated roughly north south. To the west Myra Close is a residential development which fronts onto an access road off the R810 / Emmet Road. Numbers 1, 3 and 5 are on sites which are aligned roughly east west and which have rear gardens which extend in the direction of the subject site.

2.0 Proposed Development

- 2.1.1. The proposed development is the retention of the existing rear bedroom window to north-east elevation. The window serves a bedroom which is part of development permitted under Reg Ref 2784/13 for alterations including the demolition of existing single storey rear extension and construction of: a) a part single storey part two storey extension to the rear, b) a lean-to extension to the rear to form extended living area, c) new roof to existing building with new ridge height, d) construct a new front elevation wall with revised door & window openings, & e) all associated site development works.

Condition no 2 required amendments to the layout:

the extension at first floor level to be reconfigured to provide for the relocation of the bedroom window to the rear of the extension; in the interests of amenity.

The layout of Reg Ref 2784/13 has not been provided with the history details but it seems reasonable to assume it was the same layout as is now submitted. In respect of this room the planning report on the file states that notwithstanding condition 2, the layout of the extension at first floor was not reconfigured to provide for the relocation of the bedroom window to the rear of the extension; in order to reposition the first floor bedroom window would require the reorganisation of the en-suite bathroom at first floor level also; the bedroom window was constructed in the position it was indicated on the application drawings, contrary to its permission.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for the reason:

The proposed development, the retention of first floor bedroom window, by reason of its position, orientation, and proximity to neighbouring properties, would be seriously injurious to residential amenity as a result of overlooking. Having regard to the planning history on site, the proposed development, in itself and by the precedent a decision to grant permission would set for similar development which overlooks neighbouring property, would contravene the zoning objective 'Z1', to protect, provide and improve residential amenity and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report refers to planning history including enforcement proceeding commenced regarding refused permission on the site.

Zoned Z1', to protect, provide and improve residential amenity.

3.2.2. Other Technical Reports

There are no other technical reports on file.

4.0 Planning History

2793/16 planning permission for the retention of an existing rear bedroom window to northwest elevation refused.

2783/13 planning permission granted for alterations including the demolition of existing single storey rear extension and construction of: a) a part single storey part two storey extension to the rear, b) a lean-to extension to the rear to form extended living area, c) new roof to existing building with new ridge height, d) construct a new

front elevation wall with revised door & window openings, e) & all associated site development works.

Condition no 2 required amendments to the layout:

the extension at first floor level to be reconfigured to provide for the relocation of the bedroom window to the rear of the extension. Reason: In the interests of amenity.

E0931/16 is an enforcement file regarding refusal of retention permission 2793/16

5.0 Policy Context

5.1. Development Plan

5.1.1. Zoned Z1 to protect, provide and improve residential amenity.

5.2. Natural Heritage Designations

The nearest Natura site is the South Dublin Bay and River Tolka Estuary SPA 004024, located in excess of 6 ½ km from the subject site.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal has been submitted by Conor & Christine Igoe, it includes:

- They acknowledge their guilt in following the poor advice from the architect in relation to the positioning of the window.
- They were reluctant to reconfigure the plan and located the window on the north elevation as they were aware that it would directly overlook the much used rear garden of their closest neighbour at 73 Emmet Road.
- In consultation with the Planning Enforcement Department they were encouraged to reapply for retention giving new evidence in support of the

offending window. All the people they approached gladly signed letters in support and expressed surprise and disappointment that there was an issue.

- They supply photographs and state that the view from both the offending and a permitted window at the rear of the house are almost identical. The offending window faces west and brings a lot of natural light into the bedroom. The other wall faces north so they would lose a lot of light if the window had been placed there. They enclose a photograph from the overlooked houses. They point out that there is a large apartment complex behind, with numerous large windows and balconies, overlooking them and their neighbours,
- They point out that they have greatly improved the local area by turning a longterm derelict building into a beautiful and high quality family home.
- They took great care and expense in the front to ensure it had a positive visual impact on the street by using materials that complimented and enhanced neighbouring houses.
- They have worked closely with their neighbours.
- Letters of support from neighbours at No 77 Emmet Road, No 1 Myra Close, No 3 Myra Close and No 5 Myra Close are attached to the grounds.

6.2. Planning Authority Response

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

7.0 Assessment

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment and impact on 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. Impact on Residential Amenity

- 7.3.1. The reason for the decision to refuse is that the retention of the window would be seriously injurious to residential amenity as a result of overlooking.
- 7.3.2. As the grounds of appeal points out, there is a degree of overlooking experienced by all properties in this area. The grounds includes layout drawings with distances from the rear of the adjoining residential properties given. It should be noted that these drawings are at a scale of 1:250 rather than the stated scale of 1:500, and it should also be noted that although the stated distance of the 22m arc appears to be correct, a recent extension to No 5 is not shown on the layout drawing, so that the distance to a rear window in that case is closer than 22m. There is no facing window in buildings on Emmet Road.
- 7.3.3. The window the subject of this appeal is a bedroom window and therefore less impactful than a window to a living area. Another bedroom window which is part of the subject development and faces north, has similar, if slightly more oblique views of the rear of adjacent property, as the subject window.
- 7.3.4. The letters in support of the retention, from all potentially impacted neighbours are noted.
- 7.3.5. The extensive glazing on multi storey apartment developments to the north and north-west is also noted.
- 7.3.6. In my opinion the subject window only involves a marginal increase in overlooking to that which would be experienced from the location as originally permitted and in the circumstances of this case therefore overlooking impact is not so severe as to require that permission for the retention of the window be refused.

8.0 Recommendation

- 8.1.1. In the light of the above assessment I recommend that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.

9.0 Reasons and Considerations

The proposed retention of a window serving a bedroom at first floor level, which was provided as part of a development to reconstruct a residential property in an area zoned for such use, would, subject to the following conditions, not unduly impact on the residential amenities of adjoining property by way of overlooking, would enhance the amenities of the subject property and would accordingly be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following condition. 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 subject window, this permission does not authorise any other amendments to the development permitted under planning register reference number 2784/16.

Reason: In the interest of clarity.

Planning Inspector

Appendices

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