



An  
Bord  
Pleanála

## Inspector's Report ABP-302281-18

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### Development

RETENTION: The change of rear elevation and removal of balcony to the rear elevation as approved in planning WEB1373/16.

### Location

21, Seafort Villas, Sandymount, Dublin  
4

### Planning Authority

Dublin City Council South

### Planning Authority Reg. Ref.

WEB1243/18

### Applicant(s)

Barbara Brogan.

### Type of Application

Retention

### Planning Authority Decision

Split

### Type of Appeal

First Party

### Appellant(s)

Barbara Brogan.

### Observer(s)

Patricia Mc Kiernan.

### Date of Site Inspection

31<sup>st</sup> of October 2018

### Inspector

Karen Hamilton

## 1.0 Site Location and Description

1.1. The subject site includes a mid-terrace two storey dwelling located within a small residential estate, Seaford Villas, Sandymount, Dublin 4. The site backs onto a carpark associated with the Christchurch car park, Sandymount. The dwelling has been recently extended under planning permission WEB1373/16 and there is a small rear garden and shed within the site.

## 2.0 Proposed Development

2.1. The proposed development comprises of:

- Retention of change of rear elevation and removal of a balcony to the rear elevation as approved in planning WEB1373/16.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to split the decision to GRANT permission for 3 no reasons for the change of material of the rear elevation from brick finish to render finish and to REFUSE permission for the removal of the balcony on the window on the first floor for the following reason:

1. Having regard to the Z1 zoning provision of the Dublin City Development Plan 2016-2022 which seeks "To protect, provide and improve residential amenities", the actual and perceived overlooking impacts generated by the removal of the external, blacked-out, balcony/ glass balustrade would seriously injure the amenities of the property in the vicinity and would be contrary to the provisions of the Development Plan and to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the split decision and refers to the screening element afforded to the surrounding area from the blacked out balustrade as previously granted in permission WEB 1373/16.

In addition the planner referred to the impact of the large floor to ceiling window on the adjoining carpark and rear garden space of adjoining properties.

### 3.2.2. Other Technical Reports

Drainage Department: No objection subject to conditions.

### 3.3. Prescribed Bodies

None requested.

### 3.4. Third Party Observations

One third party submission was received from the resident of the property to the north east of the site as summarised below:

- The drawings submitted for the rear extension are inaccurate and misrepresents a window shown at No 19.
- The applicant is incorrect in stating the window is in keeping with the context of the adjoining windows.
- The built window is significantly bigger than the windows in the terrace.
- The original planning application shows blacked out glass which significantly reduces the overlooking.
- The existing window has a negative impact on the residential amenities of the surrounding area.

## 4.0 Planning History

### **WEB1373/16**

Permission granted for a two storey extension with roof lights, internal alterations and site works. The permission included a “glass railing” on the outside of the lower section of the rear first floor window for the bedroom.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2016-2022

The site is located within an area zoned, Z1, Residential, where it is an objective “*To protect, provide and improve the residential amenities*”.

#### **Section 16.2.2.3** Alterations and Extensions to dwelling:

The proposed development should be confined to the rear in most cases, subordinate to the existing building in scale and design and incorporate a high standard of thermal performance and appropriate sustainable design features.

#### **Section 16.10.12:** Extensions and Alterations to Dwellings.

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.

The dwelling is located within Sandymount Architectural Conservation Area (ACA), therefore the following policies apply:

**Policy CHC1:** Preservation of the built heritage.

**Policy CHC4 & CHC5:** Conservation Areas: Development will not harm the features of special interest in the conservation areas or involve harm to loss of traditional fabric.

### 5.2. Natural Heritage Designations

None relevant.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal are submitted from the applicant in relation to the Planning Authority reason for refusal for the balustrade on the first floor rear as summarised below:

- The size of the first floor window as permitted under WEB 1373/16 matches the “as built” window aside from the altered glazing pattern.
- WEB 1373/16 shows a clear glass railing/ balustrade, the blacked- out section is only a convention to indicate the scale of the balcony in relation to the window.
- It is unusual that a blacked-out version is assumed to be used as it is such a specific treatment it would have been specified.
- A plastic/ steel/ aluminium balustrade would have been called up if it was intended to black-out the screen.
- The backed out screen is not representative of the conservation area and would be detrimental to the area.
- There is no visual intrusion onto the amenity space of adjoining properties.
- Prior to any extensions the rear gardens would have afforded views into adjoining gardens.
- The private open space of No 20 is already overlooked by a roof garden to the rear, a few doors up.
- There is no objection from the church authority in relation to any overlooking onto their property at the rear, as stated in the planners report.
- Pending the decision of the appeal, it is intended to include opaque frosting to a portion of the window to limit any direct view inward.
- The current window affords a safer means of escape than the original window.
- The bedroom is tight for space and an inward opening window would be impeded by the bed.

## 6.2. Applicant Response

The applicant is the appellant.

## 6.3. Planning Authority Response

None received.

## 6.4. Observations

One observation was received on the occupant of the property to the north east of the site and the issues raised are summarised below:

- The dimensions are inaccurate and the built dimensions are not provided.
- It is clear and apparent that the intention was to blacken out the window or barrier as submitted on WEB 1371/16.
- The rear elevation includes a black visual barrier which serves to reduce the impact of the large open window ope.
- The applicant is trying to alter their position in relation to this feature.
- The planners report includes the applicants engineers justification for altering the feature as follows "*the approved balustrade proved impractical as it would have required the window sections to open into the building*". This statement is a clear contradiction of the appellants claim.
- The angle of the applicant's photographs submitted is misleading.
- A photograph of the view from No 20 rear garden towards the applicant's window has been submitted to illustrate the impact of the window.
- The window is  $\frac{3}{4}$  times greater size than the original window on the terrace.
- The roof garden referred to by the applicant is 4 houses away.
- The furniture consideration in WEB1371/16 shows consideration for tight space and proposed inward opening windows.
- The proposed development would have a negative impact on the residential amenity.

## 7.0 Assessment

7.1. The main issues in this appeal and can be dealt with under the following headings:

- Impact on Residential Amenity
- Impact on the Built Environment
- Appropriate Assessment
- Environmental Impact Assessment

### **Impact on Residential Amenity**

7.2. Planning permission was granted for a two storey rear extension (WEB1373/16) which included brick as the external materials at the rear and a balcony screen on the exterior of the first floor window. The proposed development includes the retention of changes to this permission including the change of the external materials to render finish and the removal of the screen. The change of the external materials was granted permission and the removal of the balustrade screen was refused permission as the planning authority considered the removal of the blacked-out screening increased the perception of overlooking into the adjoining properties and therefore should be retained.

7.3. The grounds of appeal are submitted from the applicant who states that the materials proposed on the original balustrade did not include black-out, was only clear glass and having regard to the window fitted on the first floor, i.e. opening window, the balustrade cannot be retrospectively fitted. In addition, the applicant considers the use of an inward opening window is not possible given the size of the bedroom and inclusion of a bed.

7.4. An observation was received from the owner of the property to the north east of the site, who also made a submission on the retention application, to state that the original applicant clearly included a blacked out screen for the glass railing on the first floor and the removal of this feature has a negative impact on their residential amenity.

7.5. The drawings submitted with the previous application (WEB1373/16) illustrate the balustrade with a dark colouring and whilst the colour has not been detailed I

consider the original drawings indicate an intention for the finish of the screen to be blacked-out. The proposal includes the retention of the removal of this feature.

- 7.6. The site is located on lands zoned Z1, residential where it is an objective to protect the residential amenities of adjoining residents. In addition, Section 16.10.12 of the development plan includes guidance for extensions and alterations to dwellings where they should not adversely affect the amenities of adjoining residents in terms of privacy and overlooking. I note the tight urban grain on the site and surrounding area and the limited rear amenity space for the residents. The applicant proposes to include opaque glazing in the rear window should the Board consider this a necessity. I note the double height window on the first floor is directly above the rear amenity space of No 20 and No 22 and on-site inspection overlooking was present into the rear amenity space of the adjoining properties.
- 7.7. Having regard to the zoning on the site, the guidance in the development plan and the existing double height of the window and its proximity to the boundary with the rear garden of the adjoining properties I consider a certain amount of screening is applicable. I do not consider the inclusion of the blacked out glassed railing is a necessity as I consider it reasonable that opaque glazing on the lower section of the window would sufficiently remove any perception of overlooking. I consider it reasonable to include a condition requiring the fitting of this glazing within 3 months of any grant of permission.

### **Impact on the Built Heritage**

- 7.8. The site is located within the Sandymount Architectural Conservation Area (ACA). The proposed development includes the retention of works to the rear of the property which will be visible from the car park associated with Christchurch Sandymount (a protected structure). The planning authority granted permission for the change of elevation from brick to render and refused the removal of the glass balustrade. The applicant submitted examples of the render finish to the rear of properties along the terrace on either side of the site. I note the styles and finishes at the rear of the properties in the vicinity and the scale of the works proposed and I do not consider the proposal would have a significant negative impact on the character of the ACA.



### **Appropriate Assessment**

- 7.9. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest 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 the conservation objectives of any European site.

### **Environmental Impact Assessment**

- 7.10. Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

Having regard to pattern of development in the vicinity, the scale and design of the proposed development, the Z1, residential zoning on the site and compliance with the provisions of the Dublin City Development Plan 2016-2022, in particular Section 16.10. 12, extensions to dwellings, it is considered the proposed development would not have a negative impact on the residential amenity of the area or have a negative impact of the character or setting of an Architectural Conservation Area. The proposed 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. Within 3 months of the permission granted the applicant shall fit 1m from the ground of the first floor rear window with opaque glazing which shall be retained in perpetuity.

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

3. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted under planning register reference number WEB1373/16, and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

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Karen Hamilton  
Planning Inspector

21<sup>st</sup> of November 2018