



An
Bord
Pleanála

Inspector's Report ABP 303960-19

Development	Permission to reposition a bedroom window.
Location	Ebenezer, Sorrento Road, Dalkey, Co. Dublin.
Planning Authority	Dun Laoghaire-Rathdown County Council.
Planning Authority Reg. Ref.	D18A/1209.
Applicant(s)	Muireann McDonnell & Risteard Sheridan.
Type of Application	Permission.
Planning Authority Decision	Grant subject to conditions.
Type of Appeal	Third Party -v- Decision.
Appellant(s)	Niall & Gillian Hurley.
Observer(s)	None.
Date of Site Inspection	5 th June 2019.
Inspector	Dáire McDevitt.

1.0 Site Location and Description

1.1. The site is located towards the southern end of Sorrento Road, on its south western side. Sorrento Heights lie to the west on elevated ground and Sorrento Park and the People's Park, at the tip of Sorrento Point, lie to the south east. The site lies within an established residential area that is composed of predominantly two storey detached dwelling houses set within their own grounds.

1.2. The site lies within the Vico Road ACA. The existing pair of two storey semi-detached dwelling houses known as "Ebenezer" and "Marantha" date from the 1960s and so they are an example of modern residential development within this ACA.

1.3. The site comprises two distinct portions:

- One to the east that is roughly rectangular in shape and which accommodates 'Ebenezer' a two storey, flat roofed semi-detached dwelling house.
- One to the west that is roughly rectangular in shape and which accommodates the rear garden on land that rises steeply to the west over the tunnel to the DART line.

These two portions are offset in relation to one another and their combined area is stated to be c.0.639 hectares.

1.4. To the north the site is bounded by 'The Lodge', the appellant's property, a detached two storey house which has been altered and extended over the years.

2.0 Proposed Development

2.1. Permission is sought to amend an existing permission (D17A/0360) to reposition a bedroom window to the rear south western elevation to the western corner of the dwelling at first floor level with a resultant extension of 2.27sq.m and associated site works.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 10 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports (14th February 2019)

The area planner concluded that the repositioned window would be acceptable as it would not result in undue overlooking of the rear amenity spaces associated with The Lodge due to the rear building line of Ebenezer relative to the adjoining property (The Lodge) and its angle to the northwest with an outlook to the rear garden of Ebenezer which is located to the rear of The Lodge, at a higher level.

3.2.2. Other Technical Reports

Transportation Planning (6th February 2019): No objection.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

The appellants made a submission at application stage. The issues raised broadly reflect the grounds of appeal and shall be dealt with in more detail in the relevant section of this report.

4.0 Planning History

PA. Ref. No. D17A/0360 (ABP ref. No. PL06D.248838) refers to a 2018 decision to grant permission for the demolition of existing garage to the side

and construction of two storey extension to the side of the dwelling house and widening of existing vehicular entrance.

Conditions of note included:

2. *The proposed development shall be amended as follows:*
 - (a) *A notated block plan of the proposal shall be prepared.*
 - (b) *The new window in the side elevation of the existing dwelling house, which would serve the bedroom denoted as no. 1 shall be omitted and the new window in the rear elevation, which would serve this bedroom shall be redesigned accordingly.***
 - (c) *The glazing in the proposed window opening, which would serve the bedroom denoted as no. 3 shall be placed at the rear of this opening, thereby maximising the external reveal, and the northern jamb to the window opening shall be accompanied by a privacy screen. This screen shall be the same height as that of the window opening and it shall project forward of it by 300 mm.*
 - (d) *Plans of the extension to the dished kerb to accompany the widened vehicular entrance and gates proposed for installation in this entrance shall be prepared. The gates shall be designed to only open inwardly.*

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These drawings shall be prepared to a scale of 1: 100, except for the cross section required under (b) which shall be to a scale of 1: 50.

The privacy screen shall be retained insitu for the duration of the development.

Reason: *In the interest clarity and in order to safeguard residential amenity.*

5.0 Policy Context

5.1 Dun Laoghaire-Rathdown County Development Plan 2016 – 2022

The site is on lands zoned under Land Use Zoning 'A' *To protect and/or improve residential amenity.*

It is also located within the Vico Road Architectural Conservation Area (ACA).

Sections 8.2.3.4(i) and 8.2.11.3 referring to domestic extensions and development within ACAs apply.

5.2 Natural Heritage Designations

None.

5.3 EIA Screening

Having regard to the nature and scale the development which consists of the repositioning of a window in an existing house in a built up suburban location, 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.

6.0 The Appeal

A third party appeal was lodged against the planning authority's decision to grant permission by the adjoining property owners, Niall & Gillian Hurley, The Lodge, Sorrento Road, Dalkey, Co. Dublin.

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- Overlooking, loss of privacy and the cumulative impact on the residential amenities of the occupants of 'The Lodge'.
- Material contravention of the zoning objective due to the loss of residential amenity
- Previous An Bord Pleanala decision to omit a window to the side.
- Works are proceeding on site without a decision having been made.
- Photographs included to illustrate the angle of the window from inside 'The Lodge' and from its rear amenity area adjoining 'Ebenezer'.

The appellants has raised concerns relating to overlooking from the rear garden of 'Ebenezer' due to the location of its rear garden to the rear of 'The Lodge.' The grounds of appeal also raise issues relating to the works and development permitted under ABP PL. 2488838. The current application before the Board solely relates solely to the repositioning of a bedroom window at first floor level. Therefore issued raised by the appellants that are outside of this remit are not included in the assessment.

6.2 Observations

None.

6.3 Planning Authority Response

The Board is referred to the original Planner's Report on file as no new matters were raised in the appeal.

6.4 Applicants' response to the third party appeal.

This is mainly in the form of a rebuttal. Points of note include:

- Compliance drawing for PA. Ref. No. D17A/0360 (ABP ref. No. PL06D.248838) was submitted and approved by DLR in July 2018. The effect of this condition was that the approved rear window to bedroom No. 1 overlooks the garden serving the adjoining property at 'Marantha' to the rear. And that there would be no visual relationship between their house and its rear garden which is located to the rear of 'The Lodge.'
- To address overlooking of 'Marantha' and facilitate surveillance of their rear garden an angled window to the corner is proposed. The effect on the rear garden area of 'The Lodge' would be minimal.
- The revision also results in a c. 2.27sq.m increase to bedroom no. 1.
- Details have been submitted to illustrate graphically the line of sight from the proposed window.

- Reference to cumulative overlooking from the proposed repositioning of a window ignores the fact that the works to Ebenezer carried out to date resulted in the removal of 4 no. previous existing windows that faced 'The Lodge'.

7.0 Assessment

A decision to grant permission for alterations and extensions to 'Ebenezer' issued in 2018 by An Bord Pleanála under PL.06D.2488838. This was the subject of a first party appeal against a condition and a third party appeal against the decision to grant permission.

The first party appeal was against condition No. 2

Prior to the commencement of development on site the applicant shall submit for the written agreement of the Planning Authority revised plans and elevations indicating the following:

- (a) The proposed first floor Bedroom 4 omitted from the permitted development.
The applicant is advised that this may result in the retention of the existing first floor side windows and this should be clarified on any revised plans/elevations.*
- (b) The proposed first floor north-west facing corner window to Bedroom 1 shall be omitted with the proposed window serving this bedroom remaining flush with the rear elevation.*

Reason: To protect the residential amenities of the adjoining property.

Condition No. 2 attached to ABP PL.06D.248838 included part (b):

- (b) The new window in the side elevation of the existing dwelling house, which would serve the bedroom denoted as no. 1 shall be omitted and the new window in the rear elevation, which would serve this bedroom shall be redesigned accordingly.*

The current proposal, in an attempt to overcome the requirement to omit a window to the side, proposes a corner window to the northwestern first floor corner serving bedroom no. 1.

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Residential Amenities
- Appropriate Assessment

7.1 Residential Amenities

- 7.1.1 The window which is the subject of the current application is an attempt to address condition No. 2(b) attached by An Bord Pleanála to PL.06D.248838 requiring the omission of a window to the side elevation.
- 7.1.2 A degree of overlooking is to be expected in an urban setting, the window which is the subject of this application is a window at first floor level angled to look towards the rear garden area associated with 'Ebeneezer' which is located to the rear of 'The Lodge'. The rear garden of Marantha is sited to the rear of Ebeneezer. A section of the rear garden of the 'The Lodge' is bounded by 'Ebeneezer' with views into the kitchen area of 'Ebeneezer' due to the difference in levels between the two properties. The properties and their respective rear amenity spaces have a unique relationship. The main rear garden associated with 'Ebeneezer' is located to the northwest, to the rear of and at an elevated point above 'The Lodge'. The rear amenity space associated within 'The Lodge' which immediately bounds 'Ebeneezer' is located at an elevated point above the patio and ground floor of Ebeneezer.
- 7.1.3 The proposed window is at an angle on the northwestern corner of Ebeneezer. The northern corner of the window would be set back c.2m from the shared boundary with 'The Lodge' and c.11m from its rear elevation. Given the orientation of Ebeneezer and The Lodge and their relationship to each other and taking into account the unique layout of the rear amenity spaces serving each dwelling. I do not consider that the provision of an angled window to the north western corner serving bedroom no. 1 would have a significant negative impact on the residential amenities of 'The Lodge'. I further note that the original house had numerous windows to the gable facing 'The Lodge' and that the extensions and alterations carried out to date on Ebeneezer have improved

the residential amenities of 'The Lodge' by removing the original first floor windows that had previously overlooked this property.

7.1.4 I am satisfied that the development does not contravene the land use zoning 'A' attached to the site and complies with the requirements for domestic extensions as set out in the current County Development Plan.

7.2 Appropriate Assessment

7.2.1 The site is neither in nor adjacent to a Natura 2000 site. This residential site is a fully serviced urban one and so Appropriate Assessment issues would not arise.

7.2.2 Having regard to the nature and scale of the proposal, no Appropriate Assessment issues arise and it is not considered that it would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

That permission be granted for the reasons and considerations and subject to the conditions set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the current Dun Laoghaire Rathdown County Development Plan 2016-2022, the location of the site in an established residential area and its zoning for residential purposes and to the nature and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed

development would 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 applicant shall comply with all conditions of the previous permission granted under An Bord Pleanála Reference PL.06D.248838 (Reg. Ref. D17A/0360) unless required to do so otherwise by any condition attached to this permission.

Reason: In the interest of clarity.

3. Prior to the commencement of development the developer shall submit for the written agreement of the planning authority details and samples of the external finishes of the proposed window and surround.

Reason: In the interest of visual amenity.

4. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may

facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Dáire McDevitt
Planning Inspector

7th June 2019