



An
Bord
Pleanála

Inspector's Report ABP-305921-19

Development	Use of the area on top of the garage roof as a private balcony. Construction of a steel and glass balcony railing, steel stairs from ground level to the proposed balcony level and all associated site works.
Location	91 South Avenue, Mount Merrion, Blackrock, Co. Dublin
Planning Authority	Dun Laoghaire-Rathdown County Council.
Planning Authority Reg. Ref.	D19B/0405
Applicant(s)	June & Joe Meehan
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Date of Site Inspection	23 rd January 2020
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. Number 91 South Avenue, Mount Merrion comprises of a two-storey detached house located on the eastern side of this residential street and is on a stated site area of 0.039 hectares. The site is located to the south of St Theresa's National School and the Church of St Th rese, Mount Merrion.
- 1.2. The area is characterised by similar, two-storey detached and semi-detached houses. Houses were originally provided with attached garages though many of these have been altered to form part of the habitable floor spaces of these houses. The subject unit retains its flat roofed garage, and which is the subject of this application. The garage is set back by approximately 4.5 m from the front building line of the house and 12.9 m from the back of the public footpath.
- 1.3. The street rises on a north to south axis and there is a consistent building line on the eastern side of the street. Houses to the east on Trees Avenue, are staggered and are angled such that first-floor windows are not directly opposing.

2.0 Proposed Development

- 2.1. The proposed development consists of the use of the top of the flat roofed garage as a private balcony. Steel and glass railings will be provided around the edge of this space and steel stairs will provide access from the ground level. From the submitted plans, approximately 14.5 sq m of amenity space is proposed.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission subject to a single reason as follows:

'The proposed development would give rise to an unacceptable amount of overlooking of the private amenity space of the adjoining neighbour no. 93 South Avenue, and therefore materially contravenes 'Section 8.2.3.1 Quality Residential Design' of the 'Dun Laoghaire Rathdown County Development Plan (2016-2022)'. The proposed development would seriously injure residential amenity, depreciate the

value of property in the vicinity, create an undesirable precedent, and would materially contravene zoning objective 'A', contrary to the proper planning and development of the area'.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planning report reflects the decision to refuse permission. No concern was raised about the design of the railings etc., the primary issue of concern is overlooking leading to a loss of privacy. The Planning Authority Case Officer notes that the '...neighbour's garden appears even less deep than the applicant's garden'. The development would be contrary to Section 8.2.3.1 Quality Residential Design which includes consideration of privacy in new developments.

3.2.2. Other Technical Reports

Municipal Services Department – Drainage Planning: No objection to this development.

4.0 Planning History

There are no recent, valid planning applications on this site.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned A, 'To protect and/ or improve residential amenity'. Residential development is listed within the 'Permitted in Principle' category of this zoning objective.

5.1.2. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development' and the following are relevant to the subject development:

8.2 'Development Management' – with particular reference to section 8.2.3 'Residential Development', 8.2.3.1 'Quality Residential Design' and 8.2.3.4 'Additional Accommodation in Existing Built-up Areas'.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

The applicants have appealed the decision of Dun Laoghaire-Rathdown County Council to refuse permission for this development. The issues raised include:

- The neighbour at no. 93 South Avenue has a conservatory with screened roof in the back garden that prevents overlooking of the first 3 – 4 metres of the garden.
- The neighbours can be overlooked in its entirety from the subject site garden.
- A letter of support from the neighbour has been included in the appeal.
- The eastern orientation of the rear garden of no. 91, does not allow for any sunshine in the garden from approximately 15.30. The proposed balcony would provide for an area of sunshine from 16.30 to 19.30 in the summer months.
- Balconies are already a feature of houses in the area; the proposed development would not set an undesirable precedent for similar development.
- The balcony and stairs would provide for an additional emergency exit from the house on the first floor.
- Note that the Planning Authority Case Officer was not prepared to include conditions to address issues of overlooking such as the use of opaque screening on the balcony at the rear and possibly the rear side.
- Photographs have been submitted in support of the appeal.

6.2. Planning Authority Response

The Planning Authority have commented that the proposed development would:

- Give rise to increased overlooking of adjoining properties including no.93 and this is confirmed by the use of this area in the summer months for up to three hours.
- The conservatory is glazed, and it would be possible to see into this area from the proposed balcony.
- The letter of support is/ was noted; however, this was not accompanied by an appropriate fee.
- The balconies referenced in the appeal are smaller than that proposed and do not give rise to similar issues of overlooking.

7.0 **Assessment**

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Impact on Residential Amenity
- Design and Impact on the Character of the Area
- Other Issues
- Appropriate Assessment Screening

7.2. **Impact on Residential Amenity**

7.2.1. The primary issue raised by the Planning Authority was that of overlooking of adjoining properties leading to a loss of privacy. These concerns are noted, and it is likely that through the positioning of the metal stairs, these will also give rise to an element of overlooking of the adjoining property to the north.

7.2.2. Currently the difference in ground levels between the subject garden and that to the north/ no. 93 gives rise to overlooking and a loss of privacy. This is apparent having visited the site. There is a separation distance of 12.07 m between the rear of the proposed balcony and the back of the rear garden of the house to the east, on Trees Road. The separation distance to the first floor window of this house to the east would be circa 21 m, however the staggered building line reduces the potential for overlooking and I am satisfied that this house/ its private amenity space will not endure any excessive overlooking from the proposed development.

Note: The Site Layout/ Drawing No. 99-58-PL202 has an incorrect scale, it should be 1:200 not 1:250.

- 7.2.3. The provision of suitable screening to prevent overlooking would address the Planning Authority's issue of concern. The placing of opaque screening along the rear and rear/ side boundary to a height of 1.8 m would address issues of overlooking and loss of privacy. The proposed stairs should also be provided with similar screening for the same reason of ensuring the protection of privacy. The screening to the northern side should extend to be in line with the rear building lined of no. 93. I would not foresee any negative impacts to no. 93 from such opaque screening. Light will not be lost through the use of suitable opaque screening.

7.3. **Design and Impact on the Character of the Area**

- 7.3.1. The use of laminated glass and stainless-steel stanchions to form the protective edge to the balcony is acceptable. The proposed materials are relatively lightweight in design and will not dominate the visual amenity of the area. As noted earlier in this report, the garage is set back circa 4.5 m behind the front elevation of the house and the proposed development will not have a negative visual impact when viewed from the public street.

7.4. **Other Issues**

- 7.4.1. The appellant has referenced that the proposed development will provide for additional means of escape from the house in an emergency. This is noted, but I do not see how it is possible to escape from the house from the first-floor level other than to climb out of a rear window and onto a pitched roof. Such a use is unlikely to happen. There is no direct access proposed from the first floor onto the balcony. The onus will be on the applicant to ensure that the roof of the garage is suitable to accommodate the loading from people using it to sit out on.
- 7.4.2. I do not foresee that permitting the development would set a precedent. As stated already in this report, many of the garages in the area have been converted for habitable use with first floor extensions over, provided in a number of cases. The opportunity for similar balcony provision is limited in the immediate area and each case would have to be assessed on its own merits.

7.5. Appropriate Assessment Screening

- 7.5.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the following condition and reasons.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 and the zoning for residential purposes, to the location of the site in an established residential area and to the nature, form, scale 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, 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 on the 3 rd of September 2019, 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.	<p>The proposed development shall be amended as follows:</p> <p>(a) A 1.8 m high screen of obscured glazing shall be provided to the rear/ eastern side of the balcony.</p> <p>(b) A similar screen of obscured glazing to be 1.8 m in height shall be provided to the northern side of the balcony stairs and which shall extend to a point of 1 m west from the last step on the northern side of the balcony. The 1.8 m shall be measured from the base of each of the balcony steps.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of residential amenity.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

Paul O'Brien
 Planning Inspector

23rd January 2020