



An
Bord
Pleanála

Inspector's Report

ABP-307917-20

Development	Proposed ground floor balcony and associated site works
Location	Laramar, 12 Seapark Hill, Malahide, Co Dublin, K36 D682
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20B/0111
Applicant(s)	John O'Callaghan.
Type of Application	Planning Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	First Party v Condition
Appellant(s)	John O'Callaghan.
Observer(s)	None.
Date of Site Inspection	9 th October 2020.
Inspector	Elaine Sullivan

1.0 Site Location and Description

1.1. The subject site is located within the established residential area known as Seapark, which is on the outskirts of Malahide Village. It has a stated area of 0.05ha and comprises a two storey detached dwelling with front and rear gardens. The site is positioned on Seapark Hill which is the most elevated part of the development. In response to the sloping topography the houses are two storey to the front and three storey to the rear. The subject property enjoys views of Malahide Estuary and Dublin Bay and a number of adjoining properties on either side have constructed balconies or large bay windows to avail of the views.

2.0 Proposed Development

2.1. The application is for permission for the following;

- The provision of a balcony of 12sqm to the rear of the dwelling with the installation of an access door from the existing bay window, changes to the fenestration and associated works.

3.0 Planning Authority Decision

3.1. Decision

The Local Authority decided to grant planning permission subject to 6 conditions, which were mostly standard in nature. Condition No. 2 required some amendments to the proposal as follows;

The depth of the proposed balcony shall be reduced such that it does not breach the building line of the existing bay window of the subject dwelling. A privacy screen with obscure glass, 1.8m in height shall be provided along the entire western elevation of the balcony.

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

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer, (July 2020), reflects the decision of the Planning Authority. The Planning Office noted the following in their report;

- The proposed works to the rear of the dwelling would be sympathetic to the existing dwelling and not give rise to undue visual impact.
- The Planning Officer had concerns regarding the potential for overlooking of the properties to the east and west and recommended that the depth of the balcony be reduced from 2.8m to approximately 1.8m so that it aligns with the rear elevation of the existing bay window.

3.2.2. Other Technical Reports

- Due to the minor nature of the development, the file was not referred to any other departments within the Local Authority.

3.3. Prescribed Bodies

- No responses received.

3.4. Third Party Observations

- None received.

4.0 Planning History

- No planning history was found for the subject site.

5.0 Policy Context

5.1. Development Plan

The appeal site is zoned 'RS – Residential' in the Fingal County Development Plan, (FCDP), 2017-2023. The objective of which is 'To ensure that any new development

in existing areas would have a minimal impact on and enhance existing residential amenity’.

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

5.2. **Natural Heritage Designations**

No designations apply to the site.

The closest European site is the Malahide Estuary SPA & SAC, which is approximately 0.5km to the north of the site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal, as raised in the submission from the first party appellant can be summarised as follows;

- The proposed development does not impede on any residence nearby.
- The neighbours to the left and right have larger balconies in place than the one proposed.

6.2. **Planning Authority Response**

- The Planning Authority had no further comment to make.

6.3. **Observations**

- None received.

7.0 **Assessment**

7.1. This is a first-party appeal only against Condition No. 2 attached to the Planning Authority's decision to grant permission. Condition No. 2 reduces the depth of the

balcony and restricts it to the same depth of the existing bay window. It also requires that a privacy screen of 1.8m in height be provided along the western elevation.

7.2. Having regard to the nature and scale of the proposed development and the nature of condition no. 2, it is considered that the determination by the Board of the application, as if it had been made to it in the first instance, and that a *de novo* assessment would not be warranted. Therefore, the Board should determine the matters raised in the appeal only, in accordance with Section 139 of the Planning and Development Act 2000, as amended.

7.3. **Condition No. 2**

The Planning Authority's reason for attaching the condition is 'in the proper planning and sustainable development of the area'. This is further expanded on in the Planning Officer's report where concerns were raised regarding the potential for overlooking of adjoining properties to the east and west due to limited separation distances between the properties.

The buildings on the street are set apart from each other and do not have a uniform building line. This results in a graduated building line to the rear of the subject site and the adjoining properties. To the east of the site, No. 13 is set back from the appeal dwelling by approximately 1.5m. This property also has a balcony in place to the rear that is framed with clear glazing.

On the opposite side, the rear building line of No. 11 to the west, sits forward of the subject dwelling by approximately 2m. A large bay window has been constructed to the rear of this property that has clear glazing on all sides.

There is currently a bay window in place to the rear of the subject dwelling, which is positioned close to the western elevation. This window extends to a depth of 1.7m and has clear glazing on all three sides. Given the location of the existing bay window and the positioning of the glazing, I am of the opinion that, the proposed balcony would not result in any additional overlooking of the property to the east at No. 13.

Therefore, I would recommend that the section of Condition No. 2 that restricts the depth of the balcony be omitted. However, should the Board be minded to grant permission for the balcony, any concerns regarding direct overlooking could be

addressed by attaching a condition to require that a privacy screen of 1.8m be fixed to the eastern side of the balcony.

The property to the west is in closer proximity to the proposed balcony and would be overlooked by the proposal. The existing pattern of development on the site is noted, and the large bay window to the rear of No. 11 is clearly visible from the subject property. Condition No. 2 also requires that a privacy screen with obscure glass of 1.8m in height be provided along the entire western elevation of the balcony.

Given the proximity of the proposed balcony to the existing bay window, I would agree with this requirement.

7.4. Appropriate Assessment

Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is considered that the proposed development would not 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 Condition 2 is amended to remove the requirement to reduce the depth of the balcony so that it does not breach the building line of the existing bay window, as the proposal is unlikely to result in any additional overlooking of the adjoining property to the east. I also recommend that the requirement to provide a privacy screen to a height of 1.8m along the western elevation be retained.

9.0 Reasons and Considerations

- 9.1. Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to AMEND condition number 2 and the reason therefore as follows:

2. A privacy screen of 1.8m in height shall be provided along the entire western elevation of the balcony.

Reason: In order to safeguard the residential amenities of property in the vicinity.

REASONS AND CONSIDERATIONS

Having regard to the nature and scale of the proposed development and the existing pattern of development in the area, it is considered that, the depth of the proposed balcony would not result in any additional and undue overlooking of adjoining properties to the east and would not seriously injure the amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Elaine Sullivan
Planning Inspector

12th October 2020