



An
Bord
Pleanála

Inspector's Report

ABP-308246-20

Development	External modifications to previously approved dwelling under F19A/0108, projecting window to front first floor elevation and change to roof.
Location	Site between Lough Levin and Pine Hill, Thormanby Road, Howth, Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20B/0164
Applicant(s)	Melanie Wright
Type of Application	Permission
Planning Authority Decision	Permission
Type of Appeal	First Party against Conditions
Appellant(s)	Melanie Wright
Observer(s)	Patricia Lahert & Marc Hughes
Date of Site Inspection	15 th of December 2020
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 0.205 hectares is located on the eastern side of Thormanby Road. It is on the opposite side of the road to the entrance to Howth Hill Lodge (nursing home). Thormanby Road is located within the Buffer zone of the Howth SAAO and is a mature residential area. It is characterised by large dwellings of varying designs and eras on substantial plots.
- 1.2. The subject site is a long narrow plot that widens substantially at the rear (south eastern) end. The site is currently under grass and slopes steeply from Thormanby Road. The site has been cleared but is not as yet developed. A surfaced roadway runs along the southern boundary of the site, which forms a right of way to three dwellings location to the south-east of the site.
- 1.3. The entrance to this site is set back from the roadway and this setback is shared with two other dwellings. The dwelling Lough Levin is to the north of the site and Pine Hill to the south. The site is well screened from the front. The side boundaries of the site comprise of a mixture of concrete block walls (approx. 2m high) and relatively dense planting.

2.0 Proposed Development

- 2.1. Permission is sought for external modifications to previously approved two-storey detached dwelling under Reg.Ref. F19A/0108, namely: New projecting window to front first floor elevation and change from mono-pitch roof to a parapet roof at front part of the house.
- 2.2. Drawings including Floor Plans, Sections and Elevations have been submitted.

3.0 Planning Authority Decision

3.1. Decision

On the 27th of August, 2020, Fingal County Council, granted permission for the proposed development subject to 4no. conditions. This included the omission of the pop out window and replacement with a flush window and that the conditions of Reg.Ref. F19A/0108 be complied with, save for the changes permitted in the current

application. Also, that the permission be valid up to and including the 10th of January 2025 to coincide with the parent permission.

3.2. Planning Authority Reports

3.2.1. Planner's Report

This had regard to the locational context of the site, planning history and policy, the inter-departmental reports and the submissions made. Their Assessment included the following:

- The subject site is located within the 'RS' Residential zoning and the designated Buffer zone of the Howth SAAO.
- This is an application for an amendment to a previously permitted dwelling which was granted under Reg.Ref. F19A/0108.
- The applicant is now seeking the reinstatement of a feature that was omitted in the previous application where it was advised that the projecting window should be omitted and replaced by a flush window.
- The PA still have concerns about this feature and consider it should be omitted.
- They recommended that permission be granted subject to conditions.

3.3. Other Technical Reports

The Planner's Report notes that the file was not referred to any other department for comment.

3.4. Prescribed Bodies

The Planner's Report notes that the file was not referred to any other department for comment.

3.5. Third Party Observations

A Submission has been received from local residents expressing concerns about the proposed development. As these are the subsequent Observers their concerns are noted and considered in relation to the Observation made.

4.0 Planning History

The Planner's Report has regard to the extensive planning history of the site, and of sites in the vicinity. The following are the most recent relevant to the subject site:

- Reg.Ref. F19A/0108 – Permission granted subject to conditions to Melanie Wright for a two storey house of 285sq.m, single storey stables of 50sq.m boundary works, works to driveway and associated development works. To date this has not been constructed
- Reg.Ref. F05A/0395 – Permission refused by the Council and subsequently by the Board (PL06F.212762) for the erection of 2no. 4 bedroom semi-detached 2 storey dwellings with habitable attic space, 3 rooflights to the front and rear and the provision of 2 garages and stables to the rear of the site along with associated site works.

The Board's reason for refusal was: *The proposed development, involving inappropriate alterations to ground levels, would be located within the Howth Special Amenity Area Order buffer zone and in close proximity to the adjoining Special Amenity Area Order lands. Having regard to the narrow configuration of the site, the design, materials, height, scale and mass of the proposed semi-detached, three-storey houses, the proposed development would be visually obtrusive and out of character with the prevailing pattern of development in the area. The proposed development would seriously injure the visual amenities of the area and the amenities of the Howth Special Amenity Area Order and would, therefore, be contrary to the proper planning and sustainable development of the area.*

5.0 Policy Context

5.1. Fingal County Development Plan 2017-2023

Land Use Zoning

The subject site is located within land zoned 'RS' Residential and the designated Buffer zone of the Howth SAAO. Lands to the rear of the site are indicated within the applicant's ownership (outlined in blue) are within the Howth SAAO and are designated 'lands used for agriculture or forestry' on Map A associated with the Howth SAAO.

Design and Layout -Extensions

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

Section 12.4 provides the Design Criteria for Residential Development and includes regard to Extensions.

Objective DMS42 seeks to – *Encourage more innovative design approaches for domestic extensions.*

Landscape Character

The appeal site lies within a Coastal Landscape Character Type and on the prominent headland of Howth, which is also the subject of a Special Amenity Area Order (1999). Policies of the plan include to protect and preserve trees, woodlands and hedgerows on the site. Views from the footpath to the south and east of the site are identified as protected views.

The Coastal Landscape Character Type is considered to be highly sensitive to development and the plan sets out principles to guide development in such areas and landscape character assessment policy objectives NH33-NH39 apply. Table LC01 includes *Landscape Character Assessment Summary – Character, Value and Sensitivity*. Essentially the objectives seek to preserve the uniqueness of landscape character type and ensure that development reflects and reinforces this character.

Objective NH36 is concerned that new development would not impinge in any significant way on highly sensitive areas or detract from the scenic value of the area.

Identified views and prospects are afforded protection under objective NH40 of the Plan. Special Amenity Areas, including the Howth Special Amenity Area, are afforded protection under policy objectives NH44 in accordance with the relevant Order.

Objective RF51 - *Ensure that the development of any coastal site through the extension or replacement of existing buildings or development of any new buildings is of an appropriate size, scale and architectural quality and that it does not detract from the visual amenity of the area or impact negatively on the natural or built heritage.*

Natura 2000 sites are afforded protection under policy objective NH15 of the Fingal County Development Plan.

Howth Development Plan Objectives

Objectives Howth 1- 6 refer and of note are:

Objective Howth 1 – *Ensure that development respects the special historic and architectural character of the area.*

Objective Howth 4 – *Protect and manage the Special Amenity Area, having regard to the associated management plan and objectives for the buffer zone.*

5.2. Howth SAAO, 1999

The appeal site falls within a defined ‘Special Amenity Area Buffer Zone’ (see Map A of Order). It is shown proximate to the ‘Boundary of the Howth SAAO Management Plan with *Land uses for agriculture or forestry* to the east within the blue line landholding boundary to the east of the site. Objectives for residential areas include:

- To protect and improve residential amenity,
- To protect and enhance the attractive and distinctive character of the area,
- To ensure that development does not reduce the landscape and environmental quality of adjacent natural, semi-natural and other open areas in the Special Amenity Area.

5.3. Natural Heritage Designations

5.3.1. Natura 2000 sites which lie in the vicinity of the appeal site are shown in the attachments and include:

- Howth Head SAC (site code 000202),
- Howth Head Coast SPA (site code 004113),
- Rockabill to Dalkey Island SAC (site code 003000)

6.0 The Appeal

6.1. Grounds of Appeal

J.McSweeney Architects submitted a First Party Appeal on behalf of the Applicant Melanie Wright, against Condition no. 2 of the Council's decision to grant permission. This includes the following:

- Thormanby Road from Howth village and to the Howth summit is characterised by a wide variety of house types and ages, which includes recent contemporary houses, houses of the early 20th century, which include such features as brick fronts and bay windows, numerous one-off houses with individual designs.
- The pop out window is an integral part of the design of this building for both aesthetic and functional reasons.
- This window is a modern take on a traditional first floor bay window of which there are numerous examples on Thormanby Road (they include photographs).
- Pic no. 8 shows an existing 'pop out' window. There are a wide variety of window types as shown on the photos.
- The proposed front elevation with pop out window is therefore not out of character with the area and is not contrary to the proper planning and sustainable development of the area.

- The proposed window will be clad in cedar which will add interest and soften the overall effect of the render and stone. Timber cladding is used on a number of buildings in the area.
- It will reduce overlooking of part of the front garden of Loch Levin from bedroom no.2.
- They provide that there is no discrepancy in the drawings and have included additional drawings for clarification.

6.2. Planning Authority Response

Their comments include the following:

- The application was assessed against current planning policies and guidelines. The proposal was assessed having regard to the zoning objective as well as the impact on adjoining neighbours and the character of the area.
- Having reviewed the First Party appeal the Planning Authority has no further comments to make. They request that the Board to uphold their decision and retain condition no. 2 of this permission.
- In the event, that the PA's decision is upheld, they request that a condition requiring the payment of a contribution in accordance with the Council's Section 48 Development Contributions Scheme be included in the Board's determination.

6.3. Observations

An Observation has been submitted by Patricia Lahert and Marc Hughes, the owners of the neighbouring property Lough Levin, Thormanby Road, which includes the following:

- The note that the applicants have omitted to include drawings showing the proximity of their home to the newly proposed house at the northwest side elevation where the impact of this protruding window will severely impact on their privacy and the private open space of their property.

- They note their objection previously submitted relative to Reg.Ref. F19A/0108 and have regard to the modifications then made.
- The first-floor protruding window would allow residents of the house to overlook directly into their property.
- It would lead to an obtrusive and unduly dominant feature.
- Removal of hedging along the boundary has further eroded their privacy.
- They are concerned that the pop out window will not be flush with the existing house. Also, that the examples submitted do not show similar type windows.
- They note damage caused by an oil spill on the applicant's site severely impacted on their enjoyment of their rear garden area.
- They do not consider that the pop out window will enhance their privacy.
- Reintroducing the pop out window would seriously injure and devalue the residential amenity of their home and they ask the Board to reject this modification.
- They had originally asked that all the windows on the north elevation be obscure glazed.
- They request that the conditions of Reg.Ref. F19A/0108 be complied with. They request that the Board reject this appeal for modifications to the already approved development.

7.0 **Assessment**

7.1. **Appeal against Conditions**

- 7.1.1. In this case the First Party Appeal is solely against Condition no.2 of the Council's permission Reg.Ref. F20A/0164 relative to the omission of a 'pop out window'. Section 139(1)(c) of the Planning and Development Act 2000 (as amended) provides in summary that where an appeal relates only to a condition or conditions and the Board is satisfied having regard to the nature of the conditions that a determination by the Board of the relevant application as if it had been made in the first instance

would not be warranted, the application does not need to be considered *de novo* and the Board at its discretion may attach, amend or remove such conditions.

7.1.2. Section 8.11 of the Development Management Guidelines 2007 is also of note in that it provides: *The Board has complete discretion to give to the planning authority whatever directions it considers appropriate relating to the attachment, amendment of or removal from the grant of permission of the condition or conditions the subject of the appeal, or any other conditions.*

7.2. It is noted that an Observation has been made from the adjacent, local residents at Lough Levin. This is however, concerned primarily with Condition no.2 relative to the 'pop out window'. Therefore, having regard to the legislation, guidelines and the documentation submitted and taking into account that there are no Third Party appeals and that the Observation submitted primarily concerns the 'pop out window', I would recommend that it would be appropriate in this instance for the Board to deal with this issue as an appeal against condition no.2 only, rather than *de novo*.

7.3. **Consideration of Condition no.2**

7.3.1. This Condition is as follows:

The pop out window on the north-west elevation shall be omitted and replaced with a flush window design similar to that granted permission under F19A/0108.

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

7.3.2. The applicant is seeking permission to amend the front elevation of the proposed dwelling at first floor level by providing a projected window feature which would serve bedroom no. 2. Regard is had to the Planning History and it is noted that the parent permission Reg.Ref. F19A/0108 relative to permission being granted for the dwelling house included the omission of the 'pop out window'. Revised plans were then submitted in response to the Council's additional information request showing this window omitted and a flush design window replacement. The Planner's Report then provided that the proposed amendments were considered acceptable and in its amended form the proposed dwelling would not give rise to any negative impact upon the residential and visual amenities of the surrounding area. Condition no.1 of

that permission referred to compliance with the plans and particulars including the additional information submitted.

- 7.3.3. It is noted that the applicant is now seeking the reinstatement of the 'pop out window' feature, that was previously omitted, as part of the current application. The Planning Authority consider that this window will visually detract from the pattern of development and character of the area. The Observers in Lough Levin which is immediately adjacent and to the north of the proposed development are concerned about overlooking, proximity and the impact on their privacy. The site boundary of the subject (yet to be constructed dwelling) runs along their entire southern boundary and behind their site.
- 7.3.4. Having regard to the impact on visual amenity and character of the area, I would consider the impact of the proposed 'pop out window' to be marginal, in that there are several different house designs in the area, which is characterised by individual house types of varying designs on larger landscaped sites. These include some contemporary dwellings with individual features. While, I did not see anything similar to that proposed in the immediate area, I note that the photographs submitted by the First Party show a variance in the design of fenestration in the area. This includes a 'pop out window' design in Pic 8. I would not consider that having regard to the design and scale of the 'pop out window' that it will detract from the character of the dwelling houses or pattern of development in the area.
- 7.3.5. The issue relative to the impact on the privacy of the adjacent dwelling to the north Lough Levin, has been raised. Having regard to the plans submitted and as clarified by those submitted with the First Party Appeal, it is noted that the 'pop out window' will be angled away from the Observers property, which will result in less potential for overlooking. Regard is had to the north east (side) and north west (front) elevations. Therefore, I would consider having regard to the Site Layout Plan as submitted in Reg. Ref. F19A/0108, that it would have less of an impact than if it were flush with the front elevation. In view of the orientation and separation distance, I would also not consider that it will impact adversely on the dwelling to the south 'Pine Hill' which has a side elevation facing the site.
- 7.3.6. The First Party provide that the 'pop out window' will be clad in cedar and will add interest and soften the overall effect of the render and stone. It is noted that timber

cladding is used as a feature on some other properties in the area (Pics 2 & 7 refer). I would consider that it will provide a feature to the front elevation of the contemporary dwelling previously permitted and that provided quality materials are used in external finishes that it will not have an adverse impact on adjacent residential properties or on the character and pattern of development in the area.

7.4. Regard to Development Contribution

7.4.1. The Planning Authority's response to the Appeal requests that in the event their decision is upheld by the Board, that a condition relative to the payment of a development contribution be included. It is noted that the Council's permission did not include such a condition. The planning application provides that the g.f.s of the permitted (not yet constructed dwelling) is 285sq.m. Having regard to the Floor Plans submitted it is considered that any additional floor area resulting from the 'pop out window' is marginal. Section 10 of the Fingal County Council Development Contributions Scheme 2016-2020 refers to *Exemptions and Reductions* i.e.:

(a) The first 40 sq metres of domestic extensions. This exemption is cumulative and limited to 40 m² in total per dwelling. Domestic extensions for accommodation of disabled person(s) are exempted in full in cases where a Disabled Persons Grant is approved.

(b) Attic conversions.

7.4.2. Note is had of the Planning History Section above and it is noted that the dwelling permitted under the previous permission is not yet constructed. That permission included a Development Contributions condition. In this case in view of the very limited additional floor area proposed and as this is being considered as an application for an appeal against a specific condition, I would not consider that the inclusion of a further Development Contribution condition would be warranted or appropriate.

8.0 Recommendation

8.1. I would recommend that Condition no. 2 of the Council's permission Reg.Ref. F20B/0164 be omitted.

9.0 Reasons and Considerations

Having regard to the established residential nature of the site, the development as permitted in the parent permission register reference F19A/0108, and to the pattern of development in the vicinity, it is considered that the inclusion of the 'pop out window' as a feature to the north west elevation, as shown on the plans and particulars submitted, will not represent an incongruous design feature and will not impact adversely on the residential amenities of adjacent properties or on the character of the area. The omission of Condition no. 2 of register reference F20B/0164, would therefore not be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

23rd of December 2020