



An
Bord
Pleanála

Inspector's Report ABP-308823-20.

Development	First floor and side extension to dwelling.
Location	16 Ballymun Road, Glasnevin D9.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3877/20.
Applicant(s)	Dorothy Kenny & Graham Webb.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	First Party
Appellant(s)	Dorothy Kenny & Graham Webb.
Observer(s)	Martina Hayden
Date of Site Inspection	16 th April 2021.
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by the applicants against the decision of the planning authority to set a condition obscuring one upper floor window of a proposed first floor extension in the interest of protecting the amenities of the adjoining neighbour to the south – the applicant suggests minor alterations to address the concerns of the neighbour. The neighbour has submitted an observation supporting the condition.

2.0 Site Location and Description

2.1. Ballymun Road

The appeal site is located on the Ballymun Road, Dublin 16, on a section where this road connects the western end of Griffith Avenue and the Old Finglas Road, just north of the Bon Secours Hospital, Met Office HQ and the Botanic Gardens. This is an older section of the Road than to the north and features a relatively narrow urban link road with footpath and single cycleway with a mix of mostly residential buildings dating from the late 19th Century onwards. The appeal site is located on the eastern side of the road along a stretch of late 19th Century mostly semi-detached dwellings.

2.2. Appeal site

The appeal site, with a site area given as 0.073 hectares, is a semi-detached 2-storey 2-bay redbrick dwelling dating from the late 19th Century with a long rear garden and a front garden converted to parking. The floorspace of the house is given as 164 m². The main front door of the dwelling is via a small annex on the northern side of the house.

3.0 Proposed Development

The development is described on the application form of an extension at first floor to rear and side of the dwelling with associated alterations to existing elevations.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission, subject to 8 generally standard conditions. Condition 2 is as follows:

The development shall be revised as follows:

The bedroom windows in the south facing wall at first floor level shall be permanently glazed with obscure glass and shall be non-openable.

Reason: *In the interests of protecting the privacy and residential amenity of no.14 Ballymun Road.*

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Notes Z1 zoning (housing amenity) and relevant policy on extensions in sections 16.2.2.3 and 16.10.13 and Appendix 17 of the Development Plan.
- States that the principle of an extension is acceptable.
- Notes that there is no change to the private open space available to the house.
- As it is 4.5 metres from the adjoining boundary there would not be any undue overbearing impacts or impacts on sunlight or daylight.
- It is stated that the windows facing the adjoining property would have privacy impacts, this can be dealt with by way of condition.
- Permission recommended subject to 8 no. conditions.

4.2.2. Other Technical Reports

Drainage Department: No objections subject to standard conditions.

4.3. Prescribed Bodies

None on file.

4.4. Third Party Observations

The occupants of no. 14 Ballymun Road submitted an observation outlining concerns about the loss of privacy to their home and garden. It was argued that several of the first-floor windows would have an unobstructed view into their dwelling, including ground floor living area and garden. It is requested that the windows be reduced in size and/or made opaque where appropriate.

5.0 Planning History

In 2007, the planning authority decided to grant permission for a 2-storey extension to the rear of no.18 (the house to the north) along with an attic store (**1087/17**).

In 2010 permission was granted, but not implemented, for a single storey side and rear extension to no. 14 Ballymun Road (the house to the south)(**1202/10**).

6.0 Policy Context

6.1. Development Plan

The site is in a Z1 (residential amenity) zoned area. Guidelines for residential extensions are set out in Section 16 and Appendix 17 of the Dublin City development Plan.

6.2. Natural Heritage Designations and Appropriate Assessment

There are no Natura 2000 sites within 3 km of the proposed development. It is just over 3.5 km northwest of the Dublin Bay and the North Bull Island SPA (004006) and the South Dublin Bay and River Tolka Estuary SPA (004024) and the North Dublin Bay SAC (000206). The site is within the general watershed of these Natura 2000 sites, designated for a variety of migrating shore and seabirds, although it is fully connected to the Dublin City sewerage and drainage system. Having regard to the small scale of the works on an existing residential site and the separation distance from any Natura 2000 sites, no Appropriate Assessment issues arise, and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

6.3. EIAR

Having regard to the limited nature and small scale of the proposed development, the planning and development history of the site, and the absence of any significant environmental sensitivity in the vicinity and the absence of any connectivity to any sensitive 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.

7.0 The Appeal

7.1. Grounds of Appeal

The applicant has appealed condition 2 of the decision to grant permission. The main points raised are as follows:

- It is argued that the overall proposals are sympathetic to the character of the area and consistent with the zoning designation and the relevant policy provisions in the CDP (section 16 and Appendix 17).
- It is argued that due to the angle of view and distance to the windows of no.14 that it is unlikely that there would be any meaningful overlooking or loss of privacy.
- It is argued that the condition was set in response to a number of points raised by the owner of no.14, which, it is set out in some detail, appear to be based on misunderstandings about the design and its impact.
- It is submitted that the requirement for the windows to be 'non-openable' is unreasonable, has no merit, and could potentially interfere with fire escape.
- It is requested that the Board delete this condition.
- If the Board is minded not to remove the condition, it is suggested that an appropriate compromise condition as follows:

The escape window to the flat roof be glazed with obscure glass with an opening of 700mm.

The corner window opening on the south elevation to be revised reducing the overall opening size by 50%.

7.2. **Planning Authority Response**

The planning authority did not respond to the grounds of appeal.

7.3. **Observations**

Martina Hayden of 14 Ballymun Road

- It is requested that the condition be upheld, it is argued that it is necessary to protect their privacy. It is submitted that the condition was a reasonable response to concerns set out in the application.
- It is argued that the window will have an unobstructed view into the first-floor bathroom, bedroom, ground floor kitchen and garden.
- It is questioned as to what 'opaline' (as indicated in the submitted plans) means.
- It is suggested that the applicants wish to use the flat roof as a roof terrace, which would have serious implications for their privacy.
- It is requested that the Board does not remove the condition.

7.4. **Further Responses**

None

8.0 **Assessment**

8.1. **Overview**

The appeal site is within a Z1 zoned area (for the protection of residential amenities) and as such there is a general presumption in favour of modest scaled extensions having regard to the standards set out in the Dublin City Development Plan 2016-2022 (section 16 and Appendix 17) and related guidance and general planning considerations. As the proposed development is consistent with the zoning designation, is relatively minor in scale and has no drainage or traffic issues and

there are no other substantive planning issues involved, I recommend 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, so I will confine my assessment to condition 2 only (i.e. under S.139 of the Act, as amended).

8.2. **Condition 2**

The development shall be revised as follows:

The bedroom windows in the south facing wall at first floor level shall be permanently glazed with obscure glass and shall be non-openable.

Reason: *In the interests of protecting the privacy and residential amenity of no.14 Ballymun Road.*

The applicant has appealed this condition, arguing that the condition is unnecessary to protect the neighbour's amenity due to the separation distance and orientation, and that it restricts the utility and potential safety of the proposed extension. The neighbour to the south (no.14) is concerned at the amenity aspect of overlooking towards their property and is particularly concerned that that the roof will be used as a roof garden, and so impinge on their privacy and amenities.

I am satisfied that the original design as submitted for the extension is reasonable and when opaque glass is used, and having regard to the separation distance, there would be no significant overlooking or loss of privacy to the neighbour. The proposed openable window/door was originally indicated in the application drawings to be opaque, so I see no reason to restate this by condition, except to reinforce this for the avoidance of any doubt.

The neighbours concern over access to the roof is entirely reasonable and due to the size and orientation of the rear garden of the appeal site there seems no justification for amenity use of this roof, if it is the intention to do so. But I also consider it reasonable to note that access to the roof would be required both for safe maintenance purposes and for emergency use, so I do not consider that requiring it to be non-openable is the correct way of addressing the legitimate concerns of both the applicants and the neighbour/observer.

I would recommend to the Board that the best means of addressing the legitimate concerns of both parties would be to permit the development as submitted (subject

to any alterations required in accordance with those conditions not subject to this appeal), but alter condition 2 as follows:

The development shall be revised as follows:

The bedroom windows in the south facing wall at first floor level shall be permanently glazed with obscure glass. Access to the first floor roof shall only be permitted for necessary maintenance of the roof or windows. For the avoidance of doubt, the first floor roof shall not be used for amenity purposes without a separate grant of permission.

Reason: *In the interests of protecting the privacy and residential amenity of no.14 Ballymun Road.*

9.0 Recommendation

I recommend that the Board use its powers under S.139 of the Act, as amended to direct the planning to amend condition 2 of the permission as follows:

The development shall be revised as follows:

The bedroom windows in the south facing wall at first floor level shall be permanently glazed with obscure glass. Access to the first floor roof shall only be permitted for necessary maintenance of the roof or windows. For the avoidance of doubt, the first floor roof shall not be used for amenity purposes without a separate grant of permission.

Reason: **In the interests of protecting the privacy and residential amenity of no.14 Ballymun Road.**

Philip Davis

Senior Planning Inspector

18th April 2021