



An
Bord
Pleanála

Inspector's Report ABP 311191-21.

Development	Construction of extensions, alterations to dwelling, removal of side bay window and new boundary wall and fence.
Location	No. 5 Seapoint, Wicklow Town, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	21/59
Applicants	Seamus Sweeney & Fiona Smyth
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party against condition
Appellants	Seamus Sweeney & Fiona Smyth
Observers	None
Date of Site Inspection	3/11/2021
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site, has a stated area of 0.061ha and comprises the existing single storey detached dwelling at no. 5 Seapoint, Wicklow, County Wicklow. Seapoint is a housing estate located circa 1.5km to the south of Wicklow Town. It is accessed from the R750 the coast road between Wicklow Town and Arklow to the south.
- 1.2. The Seapoint housing estate is elevated above the coast road. The houses are generally single storey and detached with front and rear gardens.
- 1.3. The subject property no. 5 Seapoint is located within a cul de sac containing 8 no. similar dwellings. The dwelling has not been previously extended. It is served by a rear garden with a depth of circa 10m. There are views out from the rear garden north towards the coast.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of extensions, alterations to dwelling, removal of side bay window and new boundary wall and fence.
- 2.2. Following the submission of further information and clarification of further information the design of the extension was revised with the width of the upper floor reduced by 550mm, the floor area of the first floor reduced to 28.6sq m and the height of the cill of the first floor window to the rear (western elevation) increased to 1.5m.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 4 no. conditions. Condition no. 3 specified that the design of the first floor window to the northern elevation be revised so that the window cill be raised to 1.5m to match the first floor window in the western elevation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Following the submission of further information and clarification of further information in respect of the design of the extension in relation potential impacts upon neighbouring properties, the Planning Authority were satisfied that the issue of overlooking was addressed. They attached condition no. 3 as it was considered that the level of the first floor window cill in the northern elevation should be raised to the same as that of the first floor window to the western elevation to address potential overlooking.

3.2.2. Other Technical Reports

- None received

3.3. Prescribed Bodies

- None received

3.4. Third Party Observations

- 3.4.1. The Planning Authority received two objections/submissions in relation to the application. The issues raised concerned loss of privacy due to overlooking, design and visual impact and the height of the development and proposed raising of ground levels.

4.0 Planning History

- none

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Wicklow County Development Plan 2016-2022 is the current County Development Plan for the area and designates Wicklow/Rathnew as a large growth town in the Settlement Hierarchy set out in table 2.2.
- 5.1.2. Appendix 1 of the Development Plan – Development Design Standards

The construction of extensions to houses will generally be encouraged. The following basic principles shall be applied:

- The extension shall be sensitive to the existing dwelling and should not adversely distort the scale or mass of the structure.
- The extension shall not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existed.
- In an existing developed area, where a degree of overlooking is already present, the new extension must not significantly increase overlooking possibilities.
- New extensions should not overshadow adjacent dwellings to the degree that a significant decrease in daylight or sunlight entering into the house comes about. In this regard, extensions directly abutting boundaries should be avoided.
- Whilst the form, size and appearance of an extension should complement the area, unless the area has an established unique or valuable character worthy of preservation, a flexible approach will be taken to the assessment of alternative design concepts.

5.1.3. The site is zoned 'existing residential' in the Wicklow Rathnew Development Plan 2013 -2019 where it is the objective to protect, provide for and improve residential amenity of adjoining properties and areas while allowing for infill residential development that reflects the established character of the area.

5.2. **Natural Heritage Designations**

5.2.1. The nearest Natura 2000 sites are Wicklow Head SPA (Site Code 004127) located c. 226m to the north of the appeal site and Wicklow Reef SAC located c. 2km to the east of the appeal site.

5.3. **EIA Screening**

5.3.1. Having regard to the nature of the proposed development, extensions and alterations to an existing dwelling and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the

environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted by the applicants Seamus Sweeney and Fiona Smyth. The issues raised are as follows;

- The first party appeal is made against condition no. 3 of PA Reg. Ref. 21/59. The condition requires that the cill height in the window in the northern elevation be 1.5m.
- The appellants consider that the condition would have a detrimental impact on their use of the property. They contend that the rising of the cill level to 1.5m is unnecessary.
- They state that the room where the subject window is located is a bedroom which will be used by their son, who is on the Autistic spectrum. The design of the window in the northern elevation was intended to provide natural light and views to the north out to the sea and coastline to provide as much sensory stimulation as possible. It is submitted that a cill height of 1.5m to this window would reduce the benefits of natural light and views which their son would benefit from.
- The proposed extension and alterations including the window design were considered by the applicants having regard to the views of their neighbours. They considered that due to the existing tree screening the proposed development would not result in any new overlooking of the property to the west no. 64 Seapoint. The appellants stated that they also discussed their plans with the neighbours to the north at no. 4 Seapoint and that changes were made to address their concerns.
- The appellants stated that they also addressed the concerns of neighbours at no. 6 and no. 64 Seapoint following their submissions to the application.

- The appellants state that their neighbour at no. 4 Seapoint had no concern in relation to perception of overlooking. The submission from the neighbours at no. 64 Seapoint raised the matter of overlooking. The additional fencing and planting along the boundaries are proposed to provide screening.
- In response to the further information requested by the Planning Authority the design of the scheme was revised including the reduction in the size of the window in the western elevation and the raising of the cill height to 1.5m with a recess in the room in order to mitigate against overlooking into the rear of no. 64 Seapoint. The original planter in the northern elevation was replaced with a permanent storage structure and the windows recessed 2.45m and the cill height of 1.05m. It is submitted that these revisions in the design ensure that there will be no overlooking into no. 4 or no. 64.
- The appellants state that in response to the further information and clarification of further information they submitted plans with viewing lines at different points along the northern elevation. It is stated that the submitted sight planes indicate that no overlooking will exist.
- It is noted that the 2nd and 3rd planner's reports stated that the issue of overlooking was addressed and that it is considered that the proposed development would not result in overlooking over and above what currently exists.
- Notes on the 2nd planner's report referred to the 'perception of overlooking' as something to be considered. The appellants state that it is not clear from the planner's report and note as to who the 'perception of overlooking' would refer to. The appellants highlight that the rear of their property is not visible from any of the roads or public spaces in the vicinity, therefore it must be inferred that the 'perception of overlooking' refers to the neighbouring properties no. 4 and no. 64 Seapoint.
- In relation to their neighbours at no. 4 Seapoint the appellants state that they discussed the proposed extension with them prior to lodging the application and their neighbours at no. 4 Seapoint were happy with the original proposals and did not submit any objections or observations to the application. The submission from the neighbours at no. 64 Seapoint relates to concerns

regarding the western elevation of the extension and not the northern elevation.

- The appellants therefore set out that having regard to the submitted drawings, the planner's reports and the submissions to the application from the neighbours that there will be no overlooking and that there is no expressed perception of overlooking relating to the northern elevation. On this basis the appellants submit that the attachment of condition no. 3 is unwarranted.
- The appellants highlight the images which were submitted with the additional information. They state that the images include those taken from the furthest apart viewpoints along the north elevation. The images are taken at a height of 1.6m and represent eye level of person standing at those locations. As indicated on the images there are no views into the private or public spaces of the adjacent properties. Also, a person standing in any of those spaces would have no line of sight to any part of the window below 1.8m. Therefore, if the cill height was 1.5m it would have no difference to a person viewing the window from the adjacent properties as they would only be able to see the upper part of the window.
- The appellants request that the plans showing the window cill levels at 1.05m/0.8m in the north elevation be permitted as per the submitted drawings.

6.2. Planning Authority Response

- None received

7.0 Assessment

- 7.1. The subject appeal is a first party appeal against condition no. 3 of the grant of permission under PA Reg. Ref. 21/59. I consider, having regard to the nature of the condition, that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted and the appeal should be determined under the provisions of Section 139 of the Planning & Development Act, 2000, as amended.

Condition no. 3

Before development commences, revised elevation drawings showing the first floor window cill in the northern elevation raised to 1.5m to match the first floor window in the western elevation, shall be submitted to and agreed in writing with the Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: In the interest of residential amenity.

- 7.2. The appellants submit that the attachment of condition no. 3 is unwarranted on the basis that there would be no undue overlooking arising from the first floor window to the northern elevation. I note that the appellants have also cited in the appeal specific family circumstances as to why they need to maximise access to natural light and also views to the north out to the sea and coastline from the subject window.
- 7.3. The appellants have highlighted that they addressed the issues of concern raised in the submissions/objections to the application. Submission in relation to the application were made by the residents of the neighbouring property to the west no. 64 Seapoint and the neighbouring property to the south no. 6 Seapoint. The appellants note that the residents of the neighbouring property to the north no. 4 Seapoint did not submit an objection to the application and that they had discussed the proposed extensions and that those neighbours were satisfied with the originally proposed scheme.
- 7.4. In relation to the subject window, it is proposed to serve the new first floor bedroom. Windows are proposed to the western and northern elevations to serve the bedroom. As required as part of the further information the design of the proposed window to the western elevation was revised with the cill height raised to 1.5m. The Planning Authority required this revision in order to address potential overlooking towards the neighbouring rear garden of no. 64 Seapoint. The raising of the cill height of this window reduces the size of the window and therefore reduces the level of light entering the room from that window. The subject window to the northern elevation addresses the boundary with the neighbouring property no. 4 Seapoint. Having regard to the topography of the area, I note that the ground level drops towards the north and therefore there is a height differential of circa 2.5m between the floor level of no. 5 and no. 4 Seapoint. The difference in height between the properties is

important when considering the matter of potential overlooking from the first floor window to the northern elevation.

- 7.5. As detailed on drawing No. 2021/PP/402A – ‘Proposed Section C-C’ the direct line of vision of a person standing at first floor window in the northern elevation is above the roof ridge line of no. 4 Seapoint and the downward line of vision of a person standing at window is onto the roof of the no. 4. Furthermore, I note the additional information submitted on the 7th of May 2021, prepared by McAulay Rice Architects of images of the visible planes from the first floor window. Having regard to these images I am satisfied that the proposed first floor window to the northern elevation with a cill height of 1.05m at the corner to centre of the window and with a cill height of 0.8m from the centre section of the window to the eastern end would not seriously injure the amenities of property in the vicinity by reason of overlooking.
- 7.6. Accordingly, I conclude that the modifications to the design of the proposed window cill to the northern elevation as required by condition number 3 would be unwarranted.

Appropriate Assessment screening

- 7.7. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development, extensions and alterations to an existing dwelling, the location of the site in a serviced suburban area and the separation distance to the nearest European site and the absence of a direct hydrological connection, no Appropriate Assessment issues arise and it is not considered 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.

8.0 Recommendation

- 8.1. Having regard to the nature of the condition which is the subject of the appeal and based on the reasons and considerations set out below, I am 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 recommend that the said Council be directed under subsection (1) of section 139 of the Planning and Development Act, 2000 to **Remove** Condition Number 3.

9.0 Reasons and Considerations

Having regard to the existing pattern of development in the vicinity of the site, the proposed plans and particulars lodged with the planning authority including Drawing No. 2021/PP/402A – Proposed Section C-C and the additional information submitted on the 7th day of May 2021 prepared by McAulay Rice Architects of images of the visible planes from the first floor window, it is considered that the proposed first floor window to the northern elevation with a cill height of 1.05m and 0.8m would not seriously injure the amenities of property in the vicinity by reason of overlooking. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. It is considered, therefore, that the modifications to the design of the proposed window cill to the northern elevation as required by condition number 3 would be unwarranted.

Siobhan Carroll
Planning Inspector

19th of November 2021