



An
Bord
Pleanála

Inspector's Report

ABP-311237-21

Development	Development consists of a 19.3sqm balcony at first floor level to the rear with glass type balustrade, conversion of window opening to sliding/bi-fold doors and all associated site works.
Location	Number 1 Rocklands, Dalkey, County Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21B/0184
Applicant(s)	Michael Shelly
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party
Appellant(s)	Michael Shelly
Observer(s)	None
Date of Site Inspection	14 th January 2021

Inspector

Emer Doyle

1.0 Site Location and Description

- 1.1. The application site is located in a small gated housing development at Rocklands, Dalkey, Co. Dublin. No. 1 is located at the end of the cul de sac serving the development and comprises of a large detached two storey dwelling. The dwelling is bound to the west by a detached two storey dwelling at No. 2 Rocklands. This dwelling is currently undergoing significant construction work at present. The site has previously been subdivided and a two storey dwelling is located in part of the original back garden. A school and houses and apartments are located on Loreto Avenue adjacent to the site.

2.0 Proposed Development

- 2.1. Permission sought for a balcony to the rear of the first floor of an existing property. The proposed balcony has a stated area of 19.3m², projects 2.8m from existing dwelling and is 6.8m long. A glass balustrade with a height of 1.1m is proposed. The proposed balcony would be supported by 3 No. steel columns.
- 2.2. In response to a request for Further Information by the Planning Authority requiring a redesign to address concerns regarding overlooking, no re-design was submitted and the applicant's agent submitted a written response which contains similar points made in the appeal to the Board.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission was granted by the Planning Authority subject to 5. No. conditions.

Condition No. 2 is noteworthy as follows:

Prior to commencement of development, revised plans and particulars demonstrating the provision of screening elements to the side elevations of the rear

balcony element, to a minimum of 2m in height, shall be submitted for the written agreement of the Planning Authority.

Reason: In the interest of residential amenities.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's report dated the 9th of June 2021 considered that the principle of development was acceptable but considered that further details were required to alleviate overlooking of existing adjacent properties.
- The planner's report dated the 30th of July 2021 noted the response to the Further Information Request and considered that concerns remained in relation to overlooking of No. 2 Rocklands and the property on Loreto Avenue.

3.2.2. Other Technical Reports

Surface Water Drainage Report: No objection.

3.3. Prescribed Bodies

3.3.1. No reports.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

Relevant planning history is as follows:

PA Reg. Ref. D08B/0727

Permission granted for the erection of steel and glass balconies at first floor level to both front and rear facades of No. 1 Rocklands. The drawings show that side panels of obscure glazing were proposed of c. 2m in height to the rear balcony.

PA Reg. Ref. D20A/0318

Permission granted for 2 storey extension at No. 2 Rocklands together with new balcony and external stairs and store to rear of house, modification of existing windows and doors and widening of existing vehicular entrance and all associated site works.

5.0 Policy Context

5.1. Development Plan

5.1.1. Dun Laoghaire Rathdown County Development Plan 2016- 2022

Site is zoned 'A' which seeks 'to protect and/or improve residential amenity.'

Section 8.2.3.4 Additional Accommodation

5.2. Natural Heritage Designations

5.2.1. The closest Natura 2000 site is Dalkey Islands SPA.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal can be summarised as follows:

- The objective of the appeal is to remove Condition No. 2. It is the applicant's preference to retain the 1.1m high balustrade in accordance with the original planning application drawings.
- Photos Nos. 1-3 included in the appeal documentation illustrate that the proposed balcony will not have a new or greater impact in terms of overlooking.
- Photos 4-6 illustrate the impact on Loreto Avenue. There are already conservatory windows overlooking this dwelling and the dwelling on Loreto Avenue has a glass balcony with no visual screening to reduce overlooking. A large tree creates a natural screen at this location.
- Photo 7 illustrates that No. 2 Rocklands is currently undergoing redevelopment. The steps shown in photograph 7 will be screened and this screening will create additional privacy between Nos. 1 and 2 Rocklands. In this regard additional screening will serve little purpose.

6.2. Planning Authority Response

6.2.1. The Planning Authority response can be summarised as follows:

- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.3. Observations

- None.

7.0 Assessment

7.1. The applicant has appealed just one condition of the permission. Section 139(c) of the Act, as amended, states that if the Board is satisfied that the determination in the first instance would not be warranted, then the Board may give the planning authority such directions as it considers appropriate relating to the attachment, amendment or removal of the condition to which the appeal relates. I do not consider that there are any substantive issues relating to this proposal outside of those raised by the appellant, so I will not assess the proposal de novo. I recommend that the Board uses its discretion under S.139(c) in this regard.

7.2. The condition appealed - Condition 2 is as follows:

Prior to commencement of development, revised plans and particulars demonstrating the provision of screening elements to the side elevations of the rear balcony element, to a minimum of 2m in height, shall be submitted for the written agreement of the Planning Authority.

Reason: In the interest of residential amenities.

7.3. The main issue in this case relates to overlooking from the proposed balcony of adjacent properties at No. 2 Rocklands and a property at Loreto Avenue. The Planning Authority consider that screening elements of 2m in height are required to the side elevations of the balcony. The appeal considers that the side panels required by this condition are not warranted and the balcony will create no greater impact on overlooking than already exists at this location.

7.4. The proposed balcony projects c. 2.8m from the rear of the dwelling and is c. 6.8m in length. The main portion of the balcony would face towards an infill dwelling built in

the original garden of No. 1 Rocklands which is accessed from Harbour Road. This property 'Brackluin' does not have any windows to the rear, has a minimal rear garden and there is a boundary of mature trees between both sites. I refer the Board to Photo 1 of the appeal documentation which shows the existing view from the first floor windows at this location. Therefore, I concur with the Planning Authority report which considers that the proposed rear balcony element would not adversely impact on the amenities of this property.

- 7.5. In relation to the property to the north at No. 2 Rocklands, I refer the Board to Photo No. 3 and 7 of this appeal which show the existing view from the first floor kitchen area. I refer the Board also to photos 1 and 2 taken on the site inspection. During the site inspection, I noted that building works are ongoing at No. 2 Rocklands and a 2 storey extension is underway which would completely block any views from the proposed balcony. This two storey extension would project out further than the existing dwelling at No. 1. Having examined the plans permitted under PA Reg. Ref. D20A/0318, I note that the proposed balcony would face towards a two storey wall with no windows at this location. As such, I do not consider that the provision of a 2m high screening panel at this location would serve any purpose in terms of screening.
- 7.6. In relation to the property at Loreto Avenue, I refer the Board to photos 4, 5 and 6 of the appeal documentation and photos 3, 4, and 5 taken on the site inspection. There is an existing conservatory to the side of No. 1 Rocklands which has 3 No. windows and there is a large degree of existing overlooking at this location towards Loreto Avenue. I also note that the property at Loreto Avenue has a glass balcony at first floor level with no screening elements. Photograph 6 shows the view from the kitchen window and a large tree at this location provides natural screening.
- 7.7. In sum, I consider that this is an urban area where there is already some degree of overlooking. Having regard to the setting of the site and existing conditions in the vicinity including the two storey extension at No. 2 and the existing first floor balcony at the property at Loreto Avenue, I consider that the proposed works under consideration for development would create no new or greater impact on any boundary or nearby property in terms of overlooking. As such, I consider that Condition No. 2 requiring additional screening would not serve any useful purpose in

this particular instance and could be removed. I therefore recommend that the Board use its powers under Section 139 of the Act, as amended, to remove condition number 2.

8.0 Recommendation

- 8.1. I recommend that the Planning Authority be directed to REMOVE Condition 2 for the reasons and considerations set out hereunder.

9.0 Reasons and Considerations

Having regard to the residential land use zoning for the site, and to the pattern and character of development in the area, it is considered that the proposed balcony by reason of its scale, nature and design, and its location with respect to adjoining properties, would not detract from the character of the existing dwelling or the visual amenities of the area, and would not detract from the residential amenity of the existing dwelling or adjoining properties. Therefore, condition number 2 of the planning authority's decision, requiring the provision of screening elements to the side elevations of the rear balcony element, to a minimum of 2m in height, is not warranted.

Emer Doyle
Planning Inspector

28th January 2022