



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312769-22

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<b>Development</b>	Amendments to approved plan including additional rooflights and additional window to ground floor.
<b>Location</b>	No. 312 Howth Road, Killester, Dublin 5.
<b>Planning Authority</b>	Dublin City Council - North.
<b>Planning Authority Reg. Ref.</b>	WEB5125/21.
<b>Applicant(s)</b>	Dermot & Geraldine Martin.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third-Party.
<b>Appellant(s)</b>	Maeve & Richard Wall.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	25 <sup>th</sup> day of March, 2022.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. No. 312 Howth Road, the appeal site, has a stated site area of 1,593m<sup>2</sup>, and it contains an under construction detached. The site itself is located c40m to the west of Howth Roads junction with Sybill Hill Road and Brookwood Avenue, in the north Dublin city suburb of Killester, c6km to the north east of Dublin's city centre. The detached dwelling is setback from the heavily trafficked public domain of Howth Road which at this point contains a cycle lane running alongside the adjoining pedestrian footpath. The site is adjoined by detached dwellings on either side. The rear boundary of the site adjoins the private amenity space of No.s 136 and 138 Brookwood Avenue. The surrounding area though containing significant residential development also contains a mixture of other land uses.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for proposed amendments to approved plans of P.A. Ref. No. 4019/19 and WEB1839/21. The proposed amendments include:

- Additional rooflights on the east and north elevations.
- Additional ground floor window to the east elevation.
- Increase the size of a ground floor window on the east elevation.

Of note there is no increase in floor area proposed under this planning application.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 21<sup>st</sup> day of January, 2021, the Planning Authority decided to **grant** planning permission for the proposed development subject to 8 no. mainly standard conditions including:

Condition No. 8: Requires that the development in all other respects adhere to the development approved under P.A. Ref. No. 4019/19 and WEB 1839/21 for reasons relating to clarifying the scope of this grant of permission.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The **Planning Authority's Planning Officer's** report, dated the 21<sup>st</sup> day of January, 2022, is the basis of the Planning Authority's decision. It considered that the development sought under this application would involve only minor modifications to the fenestration of the new house being built on site to replace a bungalow that was approved under P.A. Ref. No. 4019/19 and further amended by WEB 1839/21. It was also considered that the proposed development would give rise to no undue residential and visual amenity impacts on property in its vicinity. This report concludes with a recommendation to grant permission, subject to safeguards.

#### 3.2.2. Other Technical Reports

**Engineering Department:** No objection.

### 3.3. Prescribed Bodies

#### 3.3.1. None.

### 3.4. Third Party Observations

#### 3.4.1. During the course of the Planning Authority's determination of this application it received one third party observation from the appellant. This is attached to file, and I consider that the substantive planning issues raised are the same as those raised by the appellant in their appeal submission to the Board which are summarised under Section 6.1 of this report below.

## 4.0 Planning History

### 4.1. Site – Recent & Relevant

- **P.A. Ref. No. WEB1839/21:** Planning permission was **granted** for amendments to approved plans under P.A. Ref. No. 4019/19 including: 1) the provision of an additional rooflight to west side and amended profile of rooflight on south side of the single storey part; 2) additional ground floor window to west facing gable wall on two-storey part; and, 3) omission of a rooflight on north side of two-storey part.

- **P.A. Ref. No. 4019/19:** Planning permission was **granted** for the demolition of an existing house and the construction of a part two storey and part single storey detached house with rooflights together with all ancillary site works.

#### 4.2. **Other**

- 4.2.1. The Planning Authority's Planning Officer's report notes that there is active enforcement relating to this site regarding works carried out after the time limits for construction (P.A. Ref. No. E0559/21)

### 5.0 **Policy Context**

#### 5.1. **Development Plan**

- 5.1.1. The Dublin City Development Plan, 2016-2022, is applicable and under which the site is zoned: 'Z1'. The objective for 'Z1' zoned lands is: *"to protect, provide and improve residential amenities"*.
- 5.1.2. Section 16.2.2.3 of the Plan deals with the matter of 'Alterations' and 'Extensions' to existing dwellings. It sets out these should be designed to respect the existing building, its context, and the amenity of adjoining occupiers. In addition, Section 16.10.12 of the Development Plan also deals with 'Alterations and Extensions to Dwellings' and recommend that proposals should respect the character of the area and should protect the residential amenity of adjoining properties.
- 5.1.3. Appendix 17 'Guidelines for Residential Extensions' sets out detailed advice and guidance on extensions to existing dwellings.

#### 5.2. **Natural Heritage Designations**

- 5.2.1. None relevant.

#### 5.3. **EIA Screening**

- 5.3.1. Having regard to the location of the site is an area zoned for residential development and the availability as well as capacity for water supply and mains drainage with the site having an existing connection to these to serve the development sought under this

application, I conclude that no significant environmental impacts will arise and the requirement for the submission of an EIAR may be discounted at a preliminary stage.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

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

- The Planning Authority in their assessment of this case has relied upon incorrect information to make their decision. In this regard they note that the height of the fence between their property is not 2m. They contend that it is 1.7m height above ground level with the lower 1.4m being solid and the area over a lattice. They also contend that the height of the window head as built is 2.475m above floor level and not 2.275m as indicated. The height of the ground level of the subject site is 225m above external ground level. Therefore, the Planning Authority's Planning Officer is incorrect to state that there is a boundary wall of up to 2m separating the two properties and that this is sufficient to obscure views from the proposed ground floor side elevation transparent glazed window. Of concern a person standing in this ground floor window of concern would have a clear view into the back garden of the appellants property (No. 314 Howth Road), significantly reducing their privacy, in a manner with they contend is in conflict with the zoning objective for these lands which seeks to protect, provide and improve residential amenities.
- A solution to this issue would be to condition that these windows of concern be permanently fitted with opaque glazing.
- The original design had a vertical window glazed in opaque glass. The height of this window was set at a height above eye level.
- The top of the proposed enlarged clear glazed window would be 1m above the top of the fence.
- Changing the window glazing to opaque glazing would not have any impact on natural light for No. 312 Howth Road whereas it would have a huge impact on protecting the existing residential amenities of No. 314 Howth Road.

## **6.2. Applicant Response**

6.2.1. The applicant's response can be summarised as follows:

- It was never their intention to create an overlooking issue for the appellants property.
- The legal boundary line is not disputed.
- The previous boundary of 2.02m between the two properties was removed without their permission and a lower boundary of 1.72m erected.
- It is their preferred option to maintain the clear glazed window proposed and in order to protect the residential amenities of the appellants property a 6m in length and 2m above finished ground level solid powder coated aluminium fence is proposed as part of their response. It is proposed to position this boundary just inside the boundary of No. 312. In effect this would be 2120mm above the ground level of the appellants side passage and it would block views towards the appellants side opposing opaque bathroom window. This measure would safeguard the appellants property from overlooking.

## **6.3. Planning Authority Response**

6.3.1. None received.

## **6.4. Observations**

6.4.1. None received.

## **7.0 Assessment**

7.1. Having carried out an inspection of the site, examined the appeal and application documentation including the recent planning history relating to the current construction works that are on-going on site which arise on foot of permission for the demolition of a single storey detached property and its replacement by a two storey part single storey detached dwelling house under P.A. Ref. No. 4019/19 together with the more recently permitted alterations to this grant of permission under P.A. Ref. No. WEB 1839/21, together with having regard to all relevant planning policy provisions, I

consider that the main issue that arises in this appeal case are the issues raised in relation to one of the components sought under this planning application. This is the provision of an additional ground floor window to the west facing gable wall of the two-storey part of the permitted new dwelling house and the appellants concerns that this element of the proposed development would give rise to significant adverse residential amenities upon them.

- 7.2. In relation to this concern the appellant also puts forward a concern that the residential impact has not been correctly assessed by the Planning Authority based upon incorrect information provided by the applicant as part of this application. In support of this contention the appellant has provided professional survey and photographs which in their view show that their residential amenity concerns are with basis and the proposed development, if permitted, would give rise to a significant diminishment of their residential amenity. In particular the privacy of their private amenity space which would be overlooked alongside the side elevation of their property.
- 7.3. In relation to the Planning Authority's determination of this application I note that the Board does not have an ombudsman role on procedural handling and concerns arising from the Planning Authority's determination of a planning application.
- 7.4. The applicant in their response to the grounds of appeal also raises a number of concerns that relate to civil matters, including the removal of the boundary between their property and the appellants property and the erection of a lower boundary wall without their consent.
- 7.5. For clarity I note that the Boards remit in this case can in my view be restricted to its deliberation to the specific matters raised in the appeal submission, namely the concerns raised in relation to the aforementioned new window insertion and its potential for impact on the residential amenities of No. 314 Howth Road. I consider that there are no other substantive issues arising in this case.
- 7.6. In terms of the residential amenity impact of the enlarged window on the proposed side of the eastern elevation of the new dwelling house currently under construction. I concur with the appellant in that the existing boundary treatments are not sufficient in overall solidity and height to screen the level of overlooking that would arise from the proposed enlarged window at the eastern side of the subject dwelling, if permitted. With the dimensions of this window given as 1575mm high and the same wide and with



this window serving a large habitable room in the single storey rear portion of the new dwelling due to its proposed glazing in clear glass, it's circa less than 1.2m lateral separation distance from the side boundary of No. 314 Howth Road, the windows c1.2m raised height at its base from the internal floor level, the c0.9m level height of the beginning of the glazing of this window from the indicated external ground level through to the juxtaposition of buildings to private open space amenity provisions serving No. 314 Howth Road.

- 7.7. In this context I consider that the appellants request that the Board amend by way of condition the glazing of this window of concern proposed under this application is reasonable and appropriate having regard to the land use zoning of the site and its setting which seeks to protect residential amenities ('Z1' under the Dublin City Development Plan 2016 to 2022).
- 7.8. Moreover, it is also reflective of the balance between protecting residential amenities whilst allowing improvements to residential amenities also provided for under this land use objective as well as under relevant sections of the said Development Plan, i.e., 16.2.2.3 and 16.10.12 which provides for the protection of amenity of adjoining occupiers and their residential amenities.
- 7.9. Given that the window of concern is a side window which faces onto a restricted in width passageway providing access to the rear of No. 312 Howth Road. With a similar provision running alongside No. 314 Howth Road. In terms of visual impact, I consider there would be negligible impact on the design resolution of this replacement dwelling as views to this window would be localised in the context of these two properties. Further, the fenestration detailing and dimensions of the window of concern is one that is not out of character with the overall design resolution of the replacement dwelling which seeks to harmonise with more traditional in character, appearance and material dwellings. As such this is also consistent with the prevailing character of the development in this suburban area of Dublin.
- 7.10. Also given the limited screening value of the existing boundary treatments between No.s 312 Howth Road and 314 Howth Road, together with the amended ground levels it is recommended as a precaution that the other ground floor window serving a ground floor level WC should be similarly required to be maintained permanently in opaque

glazing in order to protect the established residential amenities of No. 314 Howth Road, the adjoining property.

7.11. In relation to the applicants wish to maintain the window in transparent glazing and the proposed 6m in length and 2m in height above finished ground level set inside the boundary of their property as well as position in such a manner to prevent undue overlooking arising from the window of concern.

7.12. Whilst I acknowledge that this measure would mitigate the overlooking concern. Notwithstanding, the structure due to its height and positioning on site is in works that does not fall under the provisions of exempted development. Of additional concern the public notices for this development do not include any mention of amendments to boundary treatments or the erection of such screening walls on site. As such this mitigation measure would require planning permission in its own right and therefore is a significant alteration to the development proposed which essentially consists of the addition of rooflights and a window to the ground floor level of an approved replacement dwelling.

7.13. Based on the above considerations I consider that the appellants concerns, in relation to the adverse amenity impact of the unglazed enlarged window on the ground floor level of the amended eastern elevation is with basis and as such, if permitted as proposed, would give rise to diminishment of residential amenity. I therefore recommend that the Board permit the proposed development subject to a condition permanently restricting the glazing of the window on the eastern side elevation to opaque glass in the interests of protecting the residential amenities of properties in its vicinity as well as in the interests of the proper planning and sustainable development of the area.

#### 7.14. **Appropriate Assessment**

7.14.1. Having regard to the nature of the development sought under this application, which essentially comprises of alterations to the design of proposed extensions of a suburban dwellinghouse on serviced lands, I am satisfied that 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. I recommend that planning permission is **granted**.

## 9.0 Reasons and Considerations

9.1. Having regard to the pattern of development characterising this area, the separation distance between the development sought and properties in its vicinity, the design, built form and layout of the development and to the provisions of the Dublin City Development Plan, 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure amenities of nearby dwellings or would it seriously injure the visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars submitted on the 13th day of November, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:
  - (a) The proposed enlarged ground-floor level window on the eastern elevation shown in Drawing No. 1802: P3\_04 shall be permanently fitted with opaque glazing.

- (b) The proposed new window opening on the ground floor level eastern elevation as shown in Drawing No. 1802: P3\_04 and serving a ground floor level WC shall be permanently fitted with opaque glazing.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenity.

3. In all other respects the proposed development shall adhere to development approved under P.A. Ref. No. 4019/19 and as amended by P.A. Ref. No. WEB 1839/21.

**Reason:** In order to clarify the scope of this permission.

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Patricia-Marie Young

Inspector

28<sup>th</sup> day of March, 2022.