



An  
Bord  
Pleanála

**Inspector's Report**  
**ABP315262-22**

<b>Development</b>	Retention of modifications to approved development to retain the increased size of a dormer structure and glazing to the rear of an existing dwelling at first floor level.
<b>Location</b>	312 Sutton Park, Sutton, Dublin 13, D13P972.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F22B/0202
<b>Applicant(s)</b>	Hugh and Clotilde Grennan
<b>Type of Application</b>	Retention for modifications to approved plans.
<b>Planning Authority Decision</b>	Refuse retention.
<b>Type of Appeal</b>	First Party versus Refusal
<b>Observer(s)</b>	John Davitt, 313 Sutton Park, Dublin 13
<b>Date of Site Inspection</b>	21 <sup>st</sup> April 2023
<b>Inspector</b>	Vanessa Langheld

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## **1.0 Site Location and Description**

- 1.1.** The site is located in an established residential area and relates to the construction of a dormer structure to the rear of a recently extended two storey semi-detached house, No 312, Sutton Park, Dublin 13.
- 1.2.** The rear of the house is bounded by a substantial public green area, which forms one of the many amenity spaces in the area.
- 1.3.** There are mature trees largely blocking the view of the dormer window from the public green to the rear. The dormer window as constructed is 3.8 m wide x 2.4 m in height. The glazed area is 2.7 m wide and 1.8 m in height. The structure is rendered and painted a light pink to match the back of the house at ground and first floor level.

## **2.0 Proposed Development**

- 2.1.** Permission is sought to retain the increased size of the dormer structure and glazing which were permitted in principle, but which have been constructed to a larger scale than permitted by Condition. The statutory notices make no reference to the retention of any element of the roof profile as constructed that might differ from that permitted. However, the second Fingal County Council refusal reason refers to the Condition No. 2 of the former permission (the Condition in its totality, and not just the dormer structure which it is proposed to retain).
- 2.2.** Planning Authority Decision
- 2.3.** Retention was refused for the following two reasons:  
  
*‘1. The dormer extension is considered to be dominant upon the roof slope of the dwelling, to negatively impact upon the level of residential amenities of the surrounding area, to materially contravene Objective DMS41 of the Fingal Development Plan 2017-2023 and contravene the RS zoning objective for the area and as such would be contrary to the proper planning and sustainable development of the area.*

*2. Having regard to the plans and particulars lodged with the application, the Planning Authority consider that the development contravenes materially a condition attached to an existing permission for development on the site, i.e.. Condition 2, F21B/0253. The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.'*

- 2.4.** I note that the application drawings do not note a use for the attic space but that the drawings include a bathroom. The space was referenced as storage on the drawings for the 2021 permission (F21/0253) for the extension to the house, including the dormer structure now under appeal.

### **3.0 Planning Reports / Planning History**

- 3.1.** The Planner's Report refers to the planning history as follows:

F21B/0253 – permission for first floor extension to the side of the existing house, new gable wall to the existing roof, extending the roof across, 2 no. new opaque windows to the side, a new dormer to the rear.

Condition No. 2 attaching to the permission relates to this appeal. That Condition required the submission of revised plans to be submitted prior to commencement of development. These plans were to show the omission of the proposed gable roof and its replacement with a hipped roof to match the main dwelling. The dormer structure was to be reduced in size and to be centrally located. The Condition required that the dormer structure be set down 300mm from the main ridge, max height 1.8m, with min set back of 3 tiled courses from the eaves, maximum width 3.5m, with one window 1.8m wide by 1.1 m in height.

F16B/0121 – a previous planning application on the site for a first-floor extension, attic conversion, dormer window, raised gable wall with Dutch hip.

- 3.2.** The Applicant appealed Condition No. 4 of this permission. That Condition required a reduction in size of the dormer and the replacement of the Dutch hip roof with a (normal) hipped roof to match that of the other houses on the road.
- 3.3.** The Board's Decision retained the Condition relating to the hipped roof but altered it to provide for the replacement of the dormer with Velux roof lights. Visual Amenity was cited as the reason for this change.
- 3.4.** The Planner's Report concludes that the dormer structure as built is much bigger than that, that was conditioned. It is very dominant on the roof, with a large-glazed element. It gives rise to excessive overlooking of adjacent properties. Accordingly, it directly conflicts with the Objectives set out above. It has a negative impact on the character and residential amenity of the area and sets an undesirable precedent for other similar developments.
- 3.5.** Refusal recommended by the Planning Officer for the following two reasons:
- Material Contravention of Objective DMS41 of the 2017-2023 Fingal County Council Development Plan and RS zoning.
  - Material Contravention of Condition No.2 of previous planning permission (F21B/0253) and thereby set an undesirable precedent, which would further impact on the residential amenity of the area.
- 3.6. Other Technical Reports**
- 3.7.** The Planner's Report notes that there were no objections from Water Services.

## **4.0 Policy and Context**

- 4.1.** It is noted that the application was lodged and determined when the 2017-2023 Fingal County Development Plan was in force; however, that Plan is now superseded by the 2023-2029 Development Plan.

**4.2. The Fingal County Development Plan, 2023-2029**

**4.3.** The Plan came into effect on 5<sup>th</sup> April 2023.

**4.4.** Under that Plan, the site retains its zoning RS (Residential) *‘To provide for residential development and protect and improve residential amenity’*.

**4.5.** Of relevance to this appeal, the previous Objective is superseded by the following “guidance”. It states:

*‘14.10.2.5 Roof Alterations including Attic Conversions and Dormer Extensions*

*Roof alterations/expansions to main roof profiles, for example, changing the hip-end roof of a semi-detached house to a gable/ ‘A’ frame end or ‘half-hip’, will be assessed against a number of criteria including:*

*Consideration and regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures.*

*Existing roof variations on the streetscape.*

*Distance/contrast/visibility of proposed roof end.*

*Harmony with the rest of the structure, adjacent structures and prominence.*

*Dormer extensions to roofs will be evaluated against the impact of the structure on the form, and character of the existing dwelling house and the privacy of adjacent properties.*

*The design, dimensions, and bulk of the dormer relative to the overall extent of roof as well as the size of the dwelling and rear garden will be the overriding considerations, together with the visual impact of the structure when viewed from adjoining streets and public areas.*

*Dormer extensions shall be set back from the eaves, gables and/or party boundaries and shall be set down from the existing ridge level so as not to dominate the roof space.*

*The quality of materials/finishes to dormer extensions shall be given careful consideration and should match those of the existing roof.*

*The level and type of glazing within a dormer extension should have regard to existing window treatments and fenestration of the dwelling. Regard should also be had to extent of fenestration proposed at attic level relative to adjoining residential units and to ensure the preservation of amenities.*

*Excessive overlooking of adjacent properties should be avoided.'*

No specific dimensions for dormer structures / glazing are cited in the current Development Plan.

In light of the Planning Authority's reference to purported material contravention of the previous Objective, it is now important to assess the dormer extension against the guidance set out above.

In this regard, I do not consider that the development as constructed 'materially contravenes' the County Development Plan, and therefore the Board is not precluded in principle from granting retention permission for development.

## **5.0 The Appeal**

- 5.1.** The key issues are identified by the First Party Appellants Agent as precedent, overlooking and loss of privacy. These issues are addressed as follows:
- 5.2.** A list of addresses of houses in the general vicinity where dormer windows of varying sizes have been permitted is provided and is said to address the issue of precedent. The Agents argue that the table outlining the increased size of the dormer as constructed versus that which was permitted, highlights the fact that the width and height of the structure is not significantly different. It is also noted that it is the glazed area rather than the structure that is significantly larger.
- 5.3.** The Appeal states that the dormer was granted permission by Fingal County Council and is only marginally increased in size. In this regard the Appeal states that there is no significant increase in overlooking or loss of privacy.

Furthermore, it is stated that there is no more overlooking than already exists from the first-floor bedroom windows.

- 5.4.** The Applicant does not address the issue of the as constructed versus permitted roof profile.

**5.5. Planning Authority Response**

- 5.6.** Having reviewed the appeal, the Planning Authority remains of the opinion that the proposed development materially contravenes Objective DMS41 of the Development Plan then in force. It is dominant on the roof slope, is visually obtrusive and negatively impacts on the current level of amenities in the area, and particularly of neighbouring gardens.

- 5.7.** The Planning Authority argues that the development also materially contravenes Condition No. 2 of the former permission for the development F21B/0253.

- 5.8.** The Planner recommends that if the Board permits the development, a Financial Contribution should be applied.

**5.9. Observations**

- 5.10.** The Observations are summarised as follows:

- There is no precedent for such large-scale dormer structures on Sutton Park.
- The dormer is imposing, out of keeping with other houses on Sutton Park and leads to considerable overlooking of adjoining properties.
- There is a history of non-compliance with the planning code and there is insufficient parking provided for this property resulting in on-street parking.
- The Board is asked to uphold the refusal for retention of this development.

## **6.0 Natural Heritage Designations**

- 6.1.** The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

## **7.0 EIA Screening**

- 7.1.** Having regard to the nature and scale of the development proposed, the site's location within an established built-up urban area, which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest 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.

## **8.0 Assessment**

- 8.1.** I have read the documentation attached to this file including the Appeal, the report of the Planning Authority and further responses received. In addition, I have visited the site.
- 8.2.** There two reasons for the Planning Authority refusal, as follows:
- Material Contravention of the 2017-2023 Development Plan, and in particular Objective DMS41 regarding dormer extensions / Contravention of the Residential (RS) zoning.
  - Material Contravention of Condition No. 2 of the 2021 permission for the extension to the house.
- 8.3.** Both reasons refer to Material Contravention of the County Development Plan and of an earlier condition. These reasons are addressed below:

#### **8.4. Development Plan Zoning**

- 8.5.** The 2017-2023 Development Plan is now superseded by the 2023-2029 Development Plan. The equivalent policy is set out under Section 14.10.2.5, which relates to roof alterations including attic and dormer extensions.
- 8.6.** It states that the size of a proposed development should consider the existing structure, the streetscape and the proximity to other structures.
- 8.7.** Having visited the site and viewed the dormer window as constructed, in terms of visual amenity it is not considered to be detrimental on the surrounding area. In terms of style and finish, it blends in well with the overall design of rear of the house and when viewed from the public open space to the rear of the house, the mature trees considerably reduce the impact of it on the surrounding area.
- 8.8.** Whilst the Applicants' agent sets out a table of other properties where dormers have been constructed as examples of precedent, there are none on the immediate adjoining houses. Varying house designs are evident in the wider area, and the design is generally in keeping with the rest of the extended house, and house extensions in this and other similar established residential areas.
- 8.9.** When viewed from the immediate neighbouring properties, however, the impact of the dormer structure as constructed is more significant and there is some negative impact on their visual amenity, their privacy and thereby their established residential amenity.
- 8.10.** The current Development Plan does not cite either a maximum width or height for dormer windows and the appeal documentation does not include a section through the 'as built' attic room. Such a drawing would assist in interpretation of one's ability to overlook adjoining properties in both directions. The Appellants' agent argues that that there is no significant increase in overlooking given that the window was a permitted. However, the greater depth of glazing extends one's vertical lower peripheral vision of adjoining properties, which does affect their existing privacy.

- 8.11. This increased overlooking could be addressed by reducing the glazed area, which would in my opinion reduce the likelihood of any excessive overlooking of neighbouring properties.
- 8.12. In terms of its appearance, a reduction in the size of the window and painting the structure to match the existing roof colour would sufficiently reduce the impact of its size on the roof, when viewed from neighbouring gardens.
- 8.13. In this regard, the development currently under appeal is not considered to materially contravene the 'guidance' set out in the newly adopted Fingal County Development Plan and subject to Condition is considered in compliance generally with that guidance.

**8.14. Contravention of Condition No. 2 of the Planning Permission F21B/0253.**

Condition No. 2 states as follows:

*'2. Prior to the commencement of the development, the developer shall submit for the written agreement of the Planning Authority, revised plans and elevations at scale 1:100 to demonstrate the following amendments; (a) Omission of the proposed gable roof profile to be replaced with a hipped roof at an angle to reflect that of the main dwelling. (b) Provision of a dormer structure to be centrally located within the rear roof slope which shall be set down 300mm from the main ridge of the dwelling, maximum height of 1.8m (measured on the vertical) while ensuring a minimum set back of 3 tile courses from the eaves with the structure having a maximum width of 3.5m. Provision of one window only c. 1.8m (w) x c.1.1m (h) centrally located within the dormer structure. (external measurements). REASON: In the interest of visual amenity and the proper planning and sustainable development of the area.'*

In summary, Condition No. 2 sought the following:

- (a) the omission of the proposed gable roof profile to be replaced with a hipped roof of an angle to match the existing dwelling.

*(b) that the dormer structure to be reduced in size as follows: to be centrally located a minimum of 300mm from the main ridge, a maximum height of 1.8 m, a minimum set back of 3 tile courses from the eaves, with the structure having a maximum width of 3.5m. Provision of one window only c. 1.8m (w) x c. 1.1m (h) to be centrally located within the dormer structure.*

- 8.15.** I can find nothing on the file relating to the construction of the Dutch hip roof, which was noted during the site visit. It does not form part of the retention application / Appellants' case.
- 8.16.** The main deviation from that permitted is that the glazed area is significantly larger, both horizontally and vertically. The actual structure is somewhat larger (30cm wider), but the glazed area is significantly larger (90cm horizontally x 70cm vertically) than that permitted.
- 8.17.** This can be addressed by a Condition, which reduces the size of the glazed area to that permitted.
- 8.18.** The statutory notice description of the development in the current retention application is for the larger dormer structure. From the front, the roof profile is at odds with the rest of the street. There are, however, a number of different roof profiles in the general area. Given that the construction is now complete, the disruption required to change the roof profile would likely outweigh the benefit to the street. It is brought to the Board's attention that the issue of the Dutch hip roof profile as constructed is not included either in the retention application's statutory notices or drawings now under Appeal. However, I am raising this issue only because it formed part of the Condition No. 2 referred to the Planning Authority Refusal and was noted during the site visit and the review of the planning history. Retention of the Dutch hip roof as constructed does not form part of this application; the appeal relates only to the dormer structure to the rear of the existing dwelling as constructed.
- 8.19.** Overall, I am satisfied that if the glazed area is reduced, this will reduce the impact of the dormer window on the neighbouring properties in terms of the excessive overlooking of their gardens.

- 8.20.** The elevations of the dormer structure are currently painted a pink colour. If it were to be painted to match the roof colour, its dominance on the roof would likely be reduced in terms of its appearance when viewed from the neighbouring gardens. Given that the rear of the appeal house overlooks a large public green area, there is little other impact arising from this larger than permitted dormer extension.
- 8.21.** It is noted again that no use for the attic space in the application drawings is referenced, but that the drawings include a bathroom and a distinct smaller area for storage. The overall level was referenced as storage on the drawings for the 2021 permission (F21/0253) for the extension to the house, including the dormer structure now under appeal. Although planning conditions should not stray into other codes, reference to compliance with Building Regulations in the context of human habitation is considered appropriate in this instance.
- 8.22.** Based on the above, I am satisfied subject to Condition that the dormer extension as constructed is generally in keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area. Although there is a deviation from Condition No. 2(b) of the 2021 permission for the extension to the house, the structure itself is not significantly larger than that permitted and a Condition attaching to a grant of permission for this retention application would address the material difference in the glazed area as permitted under the 2021 permission.

## **9.0 Appropriate Assessment Screening**

- 9.1.** Having regard to the location of the site and the nature and scale of the development to be retained 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.

## **10.0 Recommendation**

- 10.1.** I recommend that permission for retention of the development is granted for the reasons and considerations and subject the conditions set out below.

## **11.0 Reasons and Considerations**

- 11.1.** Having regard to the zoning objective of the area, the design, layout and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure visual amenities, established character or the appearance of the area and would, otherwise, be in accordance with the proper planning and sustainable development of the area.

## **12.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 glazed area of the dormer structure is to be reduced in size to that required under Condition No. 2 (b) of Planning Permission F21B/0253 i.e., 1.8m (w) by 1.1m (h). This work is to be carried out within six months of the date of retention permission for development being granted.

**Reason:** In the interest of the residential amenity of the surrounding properties and the sustainable development of the area.

3. The dormer structure is to be painted to match the colour of the existing roof.

**Reason:** In the interests of visual and residential amenity of the surrounding properties and the sustainable development of the area.

4. The attic room shall not be used for human habitation if it does not comply with the Building Regulations in relation to habitable standards.

**Reason:** To clarify the extent of permission.

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Vanessa Langheld

Planning Inspector

8 May 2023