



An
Bord
Pleanála

Inspector's Report ABP-315372-22

Development	Attic conversion and new rooflights
Location	7 The Park, St. Marnock's Bay, Portmarnock, Co. Dublin, D13 KC9X
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22B/0208
Applicant(s)	Bryan Fitzgerald and Danielle O'Riordan
Type of Application	Permission (s. 34)
Planning Authority Decision	Grant with Conditions
Type of Appeal	First Party v. Condition (s. 139)
Appellant(s)	Bryan Fitzgerald and Danielle O'Riordan
Observer(s)	None
Date of Site Inspection	26 th April 2023
Inspector	Philip Maguire

1.0 Site Location and Description

- 1.1. The appeal site is located in Saint Marnock's Bay, a new housing estate in Portmarnock, Co. Dublin. The estate lies to the south of Station Road (L2150) and east of Portmarnock train station. The site is to the east of the estate. The surrounding area is residential with some undeveloped waste ground further east. The streetscape is characterised by semi-detached houses of similar form and appearance.
- 1.2. The appeal site is flat and has a stated area of 0.02307ha. It consists of a semi-detached, two-storey house with private amenity space to the rear and private parking to the front. The front boundary is open save for some low-level hedging and a section of railing forward of the building line. Rendered block walls define the side and rear boundaries. The house has brick and render finishes with blue/black roof tiles.

2.0 Proposed Development

- 2.1. Planning permission was sought to convert the attic to a study/storage room with 5 no. rooflights to the front (eastern) and 3 no. rooflights to the rear (western) roof slopes.
- 2.2. The rooflights to the front include a cluster of four towards the southern extent of the roof with a single rooflight towards the northern extent. The rooflights are illustrated as 980mm by 1180mm within the cluster, two of which would be below eye level range. The other rooflight to the front is illustrated as 980mm by 780mm. The three rooflights to the rear are evenly distributed and illustrated as 980mm by 1180mm.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission for the proposed development on 24th November 2023, subject to 8 no. conditions, and generally standard in nature.
- 3.1.2. Condition 2 is directly relevant to this appeal. It states:

The 3 no. roof lights on the rear elevation shall be omitted, and 2 of the cluster of 4 windows to the front shall be omitted.

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

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report (22/11/22): Basis for the Planning Authority decision. Given concerns over back garden depth, absence of overlooking of neighbouring properties and separation distances, it was considered that the windows to the rear should be omitted by condition along with 2 no. of the cluster to the front. On this basis, it concluded that the scale and design would not unduly impact on the amenity of the surrounding area or neighbouring properties.

3.2.2. Other Technical Reports

- Water Services (19/10/22): No objection subject to condition.

3.3. Prescribed Bodies

- DAA (21/10/22): No objection.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

4.1.1. Appeal site:

PA ref. SHD002/17: Permission **granted** (ABP-300514-17) in March 2018 for 150 no. units (52 no. duplex/apartments and 98 no. houses).

4.1.2. Adjacent site(s):

PA ref. F22B/0091: Permission **granted** in June 2022 for attic conversion including 5 no. rooflights in front (eastern) and 1 no. rooflight in rear (western) roof slopes at No. 11 The Park, Saint Marnock's Bay, Co. Dublin.

PA ref. F23B/0041: Permission **granted** in April 2023 for attic conversion including 3 no. rooflights in front (eastern) and 5 no. rooflights in rear (western) roof slopes at No. 11 The Crescent, Saint Marnock's Bay, Co. Dublin.

5.0 Policy Context

5.1. Fingal County Development Plan 2023-2029

- 5.1.1. The current Development Plan came into effect on 5th April 2023. The Planning Authority decision of 24th November 2022 was made under the previous Plan for the period 2017-2023. This appeal shall be determined under the current Plan.
- 5.1.2. The appeal site is zoned ‘RS’ Residential with a zoning objective ‘*Provide for residential development and protect and improve residential amenity*’. The objective vision is to ‘*Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity*’. Residential uses are amongst the development types ‘permitted in principle’ in this zoning.
- 5.1.3. The main policies and objectives relevant to the proposal are set out under Chapter 3 (Sustainable Placemaking and Quality Homes) and Chapter 14 (Development Management Standards) of the Written Statement.
- 5.1.4. The following sections are relevant to the issues raised in this appeal:
- 3.5.13.1 – Residential Extensions
 - 14.6.6.3 – Separation Distances
 - 14.6.6.4 – Overlooking and Overbearance
 - 14.10.2 – Residential Extensions
 - 14.10.2.5 – Roof Alterations including Attic Conversions and Dormer Extensions
- 5.1.5. I consider the following policy and objective particularly relevant:

Policy SPQHP41

Residential Extensions

Support the extension of existing dwellings with extensions of appropriate scale and subject to the protection of residential and visual amenities.

Objective SPQHO45

Domestic Extensions

Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.

5.2. National Guidelines

- 5.2.1. Section 7.3 of the Development Management Guidelines for Planning Authorities (DEHLG, June 2007) sets out the basic criteria for planning conditions.

5.3. Natural Heritage Designations

None relevant.

5.4. EIA Screening

- 5.4.1. Having regard to the nature and small scale of the proposed development, which is for an attic conversion within a fully serviced urban area, and its proximity to 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.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A 1st Party appeal has been lodged by the applicants, Bryan Fitzgerald and Danielle O'Riordan. The main grounds of appeal can be summarised as follows:
- This is an appeal with respect to Condition 2 of PA ref. F22B/0208 only.
 - The applicants are seeking consistency and fairness and draw the Board's attention to PA ref. F22B/0091 for a similar proposal to a neighbouring house on the same street (No. 11 The Park) without being conditioned to remove rooflights to the front or rear.
 - The applicants consider the proposed changes between No. 11 and No. 7 will alter the uniformity of the streetscape and will draw attention to the differences between the rooflights on the front roof slope.
 - The applicants consider that the rear rooflights are exempted development in any event and refer to the FAQ section of the Planning Authority's website and

claim that a number of other neighbouring houses have relied on this exemption.

- The applicants claim that overlooking is established by virtue of the neighbouring houses to the rear and the proposed rooflights wouldn't adversely impact on neighbouring properties.
- The applicants state that the central rooflight to the rear is located in a circulation area and cannot be considered as overlooking and refer to PA ref. F22B/0091 for precedent.
- The applicants understand that the proposed attic space is not habitable and is not being converted for habitable purposes, it is instead to free up two bedrooms currently being used as offices. The offices require natural light and windows for air circulation.
- The applicants highlight that there were no objections to their proposal and conclude that the proposed development complies with the relevant objectives of the Fingal County Development Plan 2017-2023, is in keeping with established precedent in the Saint Marnock's Bay estate and will not negatively impact on rear gardens in the area or on existing residential amenities.

6.2. Planning Authority Response

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

- The application was assessed against the policies and objectives of the Fingal County Development Plan 2017-2023 and existing government policy and guidelines as well as the impact on adjoining neighbours and the character of the area.
- The reasoning behind the omission of 3 no. windows was set out in the original report and this conclusion is considered reasonable and in the interest of protecting nearby residential amenity.
- The Board is requested to uphold the decision of the Planning Authority.
- Provision should be made for financial contribution in the event that the appeal is successful.

6.3. Observations

6.3.1. None.

7.0 Assessment

7.1. Preliminary Points

7.1.1. This is an appeal brought by the First Party in relation to Condition 2 of PA ref. F22B/0208. Condition 2 seeks to omit a number of rooflights from the proposed development in the interest of residential and visual amenity. Having examined the application details and all other documentation on the appeal file, including the appeal submission, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I am satisfied that this appeal can be considered under section 139 of the Planning and Development Act 2000 (as amended).

7.1.2. The issues can be addressed under the following headings:

- Residential Amenity
- Visual Amenity
- Appropriate Assessment

7.2. Residential Amenity

7.2.1. As noted, Condition 2 of PA ref. F22B/0208 seeks to omit the 3 no. roof lights from the rear and 2 no. roof lights from the front roof slopes. Whilst it is not explicitly clear from the Planning Authority's decision including the 'Planning Officers Report' that informed that decision, or indeed their appeal submission, I am satisfied that their concerns in respect of residential amenity impacts are restricted to the 3 no. roof lights to the rear.

7.2.2. The rooflights to the northern and southern extents of the rear roof slope are roughly equidistant from the gable and party walls. The middle rooflight is just off centre, presumably due to the access stairs. These rooflights, as noted previously, measure 980mm by 1180mm. The proposed attic plan illustrates the bottom and top of the rooflights at 1.20m and 1.80m above floor level respectively. A midline through the windows is shown as 1.50m above floor level. The distance from the rooflights to the rear boundary is c. 8m. The rear wall has a separation distance of between 5.5-6.0m.

- 7.2.3. I accept that there will be a degree of overlooking from the proposed rooflights but I consider that this overlooking will be mostly limited to oblique views of adjoining private amenity space. I am satisfied that there will be minimal views towards directly opposing windows and any adverse impact on the residential amenity of Nos. 27 and 28 The Avenue, Saint Marnock's Bay will be negligible having regard to a separation distance of roughly 15m and offset in orientation. I also note that no submissions or observations were received from the owners/occupiers of these or any other properties in the vicinity of the appeal site. Finally, whilst I accept that there may be some merit in the applicants claims regarding exempted development provisions, this is not determinative to the appeal before me, and I do not propose to consider it further.
- 7.2.4. Having regard to the above, I do not consider the 3 no. rooflights proposed to the rear roof slope of the existing house on the appeal site will give rise to any adverse impacts on residential amenity. I do not therefore consider their omission to be necessary in the interests of proper planning and sustainable development. Condition 2 of PA ref. F22B/0208 does not meet the relevant criteria of a planning condition in this regard and I am satisfied it should be removed from the Planning Authority decision insofar as it relates to the omission of 3 no. rooflights in the interests of residential amenity.

7.3. Visual Amenity

- 7.3.1. Again, whilst it is not explicitly clear from the Planning Authority's decision or indeed referred to in the appeal submission, I am satisfied that their concerns in respect of visual amenity impacts are restricted to an unspecified 2 no. of the proposed cluster of 4 no. rooflights to the front. This cluster is located towards the southern extent of the roof slope, in a two over two arrangement, and c. 1.145m from the gable end. These rooflights measure 980mm by 1180mm. The proposed attic plan illustrates the bottom and top of the upper rooflights at 1.20m and 1.80m above floor level respectively. A midline though the windows is shown as 1.50m above floor level. The lower rooflights are recessed in the attic void and significantly below eye level.
- 7.3.2. I note that the Planning Authority permitted an identical arrangement under PA ref. F22B/0091 at No. 11 The Park, four houses south of the appeal site. The Planning Authority's appeal submission does not make any reference to this decision or how the respective applications materially differed in their assessment. Indeed, their appeal submission is silent in respect of these rooflights and visual impacts generally.

- 7.3.3. The rooflights permitted under PA ref. F22B/0091 have been constructed and were of negligible visual impact on the day of my site inspection and in fact difficult to see from many public areas given the proximity of the estate road to the building line and limited strip of public open space on the eastern side of this road. Whilst I accept that the separation distance and degree of offset is greater between No. 11 The Park and Nos. 20 and 21 The Avenue, when compared with the appeal site and Nos. 27 and 28 The Avenue, this is moot when assessing the impacts on visual amenity. I am satisfied that the development permitted under PA ref. F22B/0091 is analogous to the appeal before me and I do not consider the proposal will adversely impact on visual amenity.
- 7.3.4. Having regard to the above, I do not consider the 5 no. rooflights proposed to the front roof slope of the existing house on the appeal site will adversely impact on visual amenity. I do not therefore consider the omission of 2 no. rooflights to be necessary in the interests of proper planning and sustainable development. Condition 2 of PA ref. F22B/0208 does not meet the relevant criteria of a planning condition in this regard and I am satisfied it should be removed from the Planning Authority decision insofar as it relates to the omission of a stated 2 no. rooflights in the interests of visual amenity.

7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development, which is for an attic conversion in an established and serviced urban area, the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, 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. In accordance with section 139(1) of the Planning and Development Act 2000 (as amended), I recommend that the Planning Authority be directed to **REMOVE** Condition 2 of PA ref. F22B/0208 for the reasons and considerations set out hereunder.

9.0 **Reasons and Considerations**

- 9.1. Having regard to the provisions of Fingal County Council Development Plan 2023-2029, the nature and scale of the proposed development and the prevailing pattern

and character of development in the area, it is considered that, subject to compliance with the all other conditions set out under PA ref. F22B/0208, the proposed development would not seriously injure the visual or residential amenities of the area, or of property in the vicinity, and would provide an acceptable standard of amenity for future residents. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Philip Maguire

Planning Inspector

3rd May 2023