



An
Bord
Pleanála

Inspector's Report ABP315516-23

Development	Retention of 3 Velux Cabrio Balcony Rooflights to rear of house and associated works.
Location	Pine Lodge, Monterey Road, Greystones, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	22/1163
Applicant(s)	Emma and Nicholas Farandos
Type of Application	Retention.
Planning Authority Decision	Refused.
Type of Appeal	First Party
Appellant(s)	Emma and Nicholas Farandos
Observer(s)	Marc Coleman
Date of Site Inspection	16 th June 2023
Inspector	Louise Medland

Contents

1.0 Site Location and Description.....	3
2.0 Proposed Development.....	3
3.0 Planning Authority Decision	3
3.1. Decision.....	3
3.2. Planning Authority Reports.....	4
4.0 Planning History.....	5
5.0 Policy and Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations.....	5
5.3. EIA Screening	5
6.0 The Appeal.....	6
6.1. Grounds of Appeal	6
6.2. Planning Authority Response	7
6.4. Observations	7
6.5. Further Responses	8
7.0 Assessment.....	8
8.0 Recommendation.....	10
9.0 Reasons and Considerations	10

1.0 Site Location and Description

1.1. The site is located at Pine Lodge, Monterey Road, Greystones, Co Wicklow. The site is a substantial two storey detached dwelling with front and rear gardens, gated access and mature boundaries consisting of hedging interspersed with mature trees. The site is located within an established residential area with the dwellings in the immediate vicinity being of similar size and plots. The appeal site is relatively level throughout and sits in an elevated position to its neighbours adjacent to the east of the site.

2.0 Proposed Development

2.1. The proposal seeks full permission for the retention of 3 no. Velux Cabrio Balcony Rooflights to the rear eastern pitch of Pine Lodge and all associated works.

2.2. These are approximately 2.6m in length, 1.1m wide and are shown to sit flush with the roof plane. Measurements taken from drawing 'Existing side elevations and section A-A – Dwg No. P.005. When open the lower section at its widest point protrudes 1.2m and 0.9m in height above the roof plane. The upper section will protrude 1.5m from the roof plane.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 19th of December 2022 Wicklow County Council issued a notification of a decision to refuse permission for the proposed development for the following single reason:

- The proposed development, would by reason of the introduction of a multiplicity of 'cabrio Velux' balconies in the existing eastern roof slope of Pine Lodge result in:
 - a) A visually cluttered effect which is incompatible with the character and form of the existing two storey residential house which is at a prominent position, and therefore seriously injure the residential and visual amenities of

properties in the vicinity of Pine Lodge, which includes the protected structure 'Mancos' (listed as RPS_Number 08-74),

- b) Setting a poor precedent for further inappropriate development in the form of 'cabrio Velux' balconies,
- c) Harm to the amenity of neighbouring occupiers due to increased overlooking of their private amenity spaces,
- d) Consolidation of unauthorised development which constitutes a substandard form of residential development that would seriously injure the residential amenities of the future occupants.

The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

The Wicklow County Council Planning Report forms the basis for the decision. The report provides a description of the site and subject proposal, it sets out the planning history of the site and surrounds, summaries the observation on the planning file and sets out the policy that is relevant to the development proposal.

3.3. Other Technical Reports

None

3.4. Third Party Observations

One observation was received on the 30th of November 2022 from the occupier of Mancos, New Road, Greystones and is summarised as follows:

- Refers to Section 5 Declaration EX 44/2022.
- Original planning permission 05/2571 for the construction of Pine Lodge, established a precedent in respect of protecting the privacy and amenity value of the adjoining properties, with particular regard to conditions 7 and 8 of that

permission restricting use of a flat roof above the garage as a balcony and amendments to the design removing a balcony and double doors on the southern side elevation and the requirement of obscure glazing for two first floor side elevation windows, in the interest of ensuring the privacy of neighbouring properties.

- The 3 no. Velux Cabrio balconies as installed cause a serious overlooking issue to our home (Mancos) and other adjoining properties.
- Negative impact on the privacy and amenity value of our home by way of overlooking to the master bedroom, two other bedrooms, rear garden and BBQ outdoor dining area.

4.0 Planning History

- P.A Ref EX44/2022 – Installation at second floor level of large multiplex Velux cabrio or similar glazed walk out balcony units on eastern pitch of roof – Considered to be development but not exempted development within the meaning of the Planning and Development Act 2000 (as amended)
- P.A Ref 05/2571 – Two storey detached house on site to rear of Woodbrook House, together with ancillary site development works including vehicular entrance and demolition of existing garage – Granted subject to conditions -

5.0 Policy and Context

5.1. Development Plan

5.2. Wicklow Development Plan 2022 – 2028 (WDP 2022-2028)

- Settlement Strategy
- Housing – CPO 6.21
- Built Heritage

- Development and Design Standards Appendix 1
- Record of Protected Structures Appendix 4

5.3. **Natural Heritage Designations**

5.4. There are no designated natural heritage sites in the vicinity of the appeal site.

5.5. **EIA Screening**

5.6. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 **The Appeal.**

6.1. **Grounds of Appeal**

- Proposal is acceptable in principle in accordance with zoning RE – Existing Residential and policy CPO 6.21.
- The proposal does not amount to a significant impact on visual amenity. Whilst the manufacturer refers to them as balconies the balcony element is not permanent and only usable when two sections of the roof light are in use simultaneously.
- When closed the rooflight does not protrude beyond the roof tiles with the exception of the frame, similar to most roof lights. Highlight that most roof light open out beyond the roof plane for access/escape and ventilation.
- The design is compatible with the character of the dwelling.
- Pine Lodge cannot be considered a prominent location being a private and secluded site with 4-5m box hedging and evergreen trees approximately 10m and provide sufficient screening.

- Visual clutter is unfounded due to the secluded nature of the site.
- The proposal does not materially increase overlooking to an unacceptable degree being wide enough for only one person standing.
- Adequate separation distances of approximately 23m to Mancos and Sentosa approximately 22m.
- The proposal will greatly increase the residential amenity of future occupants of Pine Lodge by providing access to greater sunlight, potential means of escape and enabling the use of the attic as habitable floor space and could facilitate an attic conversion representing a positive impact for future occupants.

6.2. Planning Authority Response

- None

6.3. Observations

One observation was received on the 31st of January 2023 from the occupier of Mancos, New Road, Greystones and is summarised as follows:

- Refers to Section 5 Declaration EX 44/2022.
- Original planning permission 05/2571 for the construction of Pine Lodge, established a precedent in respect of protecting the privacy and amenity value of the adjoining properties, with particular regard to conditions 7 and 8 of that permission restricting use of a flat roof above the garage as a balcony and amendments to the design removing a balcony and double doors on the southern side elevation and the requirement of obscure glazing for two first floor side elevation windows, in the interest of ensuring the privacy of neighbouring properties.
- The 3 no. Velux Cabrio balconies as installed cause a serious overlooking issue to our home (Mancos) and other adjoining properties.

- Negative impact on the privacy and amenity value of our home by way of overlooking to the master bedroom, two other bedrooms, rear garden and BBQ outdoor dining area.

6.4. Further Responses

- None

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- The principle of the development and impact of the residential and visual amenity of neighbouring dwellings.
- Impact on the protected structure 'Mancos'.
- Consolidation of unauthorised development (I have assumed that this relates to the attic's use as habitable accommodation given the 3 no. Velux cabrio balconies are the subject of this appeal) a substandard form of residential development that would seriously injure the residential amenities of the future occupants.
- Unacceptable precedent.

7.2. The Principle of the Development and impact of the residential and visual amenity of neighbouring dwellings

7.3. The site is located within an existing residential – RE as per the WDP 2022-2028 and is deemed acceptable in principle this is subject to acceptable design and the protection of existing residential amenity.

7.4. When in use as rooflights, their visual impact would not be to the extent as to when they are opened in the balcony form. It is when the 3 no. Velux cabrio balcony windows are in use alongside the existing 2no. rooflights, that in my opinion results in visual clutter to the eastern roof pitch. The appellant has argued that the site is

secluded and private from public view. Whilst this may be the case for Monterey Road and New Road, it does not remove the fact that the roof pitch is clearly visible from the properties Marcos and Sentosa.

- 7.5. The mature boundaries and separation distances in situ do arguably provide a degree of screening and privacy to the appeal site and its neighbours, however considering the height of these boundaries ranging between approximately 4-5m, combined with the topography of the area with the appeal site sitting at a higher level than its eastern neighbours and the nature of the proposal being at second floor, it is this combination of factors, as well as the size of the proposed balconies and number that results in the 3 no. Velux cabrio balconies being highly visible.
- 7.6. The appellants case states that whilst the Velux cabrio are described as balconies by the manufacturer that they are not permanent balconies. It is accepted that the balcony element, requires the simultaneous opening of two sections, nevertheless, this does not alter the permanence of the structure required to utilise the balcony feature. I disagree with the statement that proposal is not a balcony nor a permanent feature.
- 7.7. By the very nature of the intended use of a balcony, I do not accept the appellants argument that it does not introduce any 'new overlooking'. This combined with the proposed 3 no. balconies does introduce additional overlooking by providing access to a panoramic view, which I consider to be to an unacceptable degree and would severely harm the residential amenity of those neighbouring dwellings namely, Marcos and Sentosa.
- 7.8. The appellant argues that the proposal will greatly increase the residential amenity of future occupants of Pine Lodge by providing access to greater sunlight, potential means of escape. No evidence has been provided to demonstrate that this type of rooflight with a balcony element is required to deliver this. It is my opinion that rooflights without a balcony element can provide access to greater sunlight and potential means of escape without the requirement of a balcony.
- 7.9. It is accepted and noted that the essence of conditions 7 and 8 of planning permission 05/2571 were in the interest of protecting the residential amenity of neighbouring residents. Nevertheless, this appeal is a stand-alone proposal which must be considered on its own individual merits under the prevailing planning policy context.

7.10. Impact on the protected structure 'Mancos'

7.11. In terms of the impact of the proposal on the character and setting of the protected structure 'Mancos' to the north east, it is my opinion that the proposal would not detract from the protected structure to an unacceptable degree. The character and setting of 'Mancos' would not be altered and therefore I do not find this element of the Local Authority's refusal reason or the third party's observation to be substantiated.

7.12. Consolidation of unauthorised development

7.13. The Local Authority refers to the consolidation of unauthorised development in their refusal reason, however no reference is made to the specific unauthorised development referred to. I have assumed that this relates to the attic's use as habitable accommodation given the 3 no. Velux cabrio balconies are the subject of this appeal. Nevertheless, I will confine myself to the proposal before me as part of this appeal. In this respect the Local Authority's reference to a substandard form of residential development that would seriously injure the residential amenities of the future occupants is unsubstantiated and therefore I conclude that this part of the refusal reason must fail.

7.14. Appropriate Assessment Screening

7.15. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for all elements of the development for the reasons and considerations set out below.

9.0 Reasons and Considerations

- The form of the 'Velux Cabrio Balcony' would result in visual clutter and therefore seriously injure the residential and visual amenities of properties in the vicinity of Pine Lodge.
- The resultant adverse impact on the residential amenity of neighbouring properties by way of unacceptable overlooking from the 3 no. Velux cabrio balconies to the neighbouring properties Mancos and Sentosa.
- The proposal if permitted would result in the setting of an undesirable precedent for similar type of developments.

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 judgment in an improper or inappropriate way.

Louise Medland
Planning Inspector

8th August 2023