



An
Bord
Pleanála

Inspector's Report

ABP-315786-23

Development	Demolish one/two storey extensions and sheds at Wilmont Lodge, erect one and two storey replacement structures.
Location	Wilmont Lodge, Wilmont Avenue, Sandycove, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown Co. Co.
Planning Authority Reg. Ref.	D22A/0892
Applicant(s)	Brian Conroy
Type of Application	Permission
Planning Authority Decision	Grant subject to 11 no. conditions
Type of Appeal	Third Party
Appellant(s)	Brian Brannigan & K. Fionnuala Cleary
Observer(s)	None
Date of Site Inspection	22 nd May 20023
Inspector	Bernard Dee

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1.0 Site Location and Description

- 1.1. The appeal site is located on Wilmont Avenue which is a road running in a north-south direction from Sandycove Road (R119) and is a cul-de-sac. The area is residential in character comprised mainly of single and two storey Victorian and early 20th century residential buildings. To the west of the appeal site is a three storey apartment block called Seabank Court
- 1.2. The dwelling to which this appeal relates is a single storey plus dormer to the front (east) and a one and a half storey structure to the rear (west). Wilmont Lodge is located to the west of the site which gives a large front but small rear garden area. The third party appellants live at No. 9 Marine Avenue which is located directly east of the appeal site.
- 1.3. During the site visit it was not possible to gain entry to the rear garden area of No. 9 Marine Avenue the appellant's property.

2.0 Proposed Development

- 2.1. The development will consist of the demolition of existing one and two storey extensions and sheds to the rear and sides (north and south) of Wilmont Lodge. These structures have been incrementally added to the original house over an extended period of time and are of no architectural or historic merit.
- 2.2. From the drawings submitted to the Planning Authority the replacement structures are in a contemporary design with a single story garage and study located to the north of the original house. To the rear (west) a two storey structure is proposed which will extend southward beyond the original southern building line. A small courtyard will result between the new northern and southern buildings.
- 2.3. The two storey extension will accommodate bedroom space at first floor level and living space and utility room at ground floor level. Internal modifications are also proposed at both floors. Of particular relevance to this appeal is the remodelling of the existing flat roofed dormer window on the front elevation facing east (towards No. 9 Marine Avenue) and the addition of two more dormer windows flanking the original centrally located dormer.

3.0 Planning Authority Decision

3.1. Decision

Permission for the proposed development was granted on 20th January 2023 subject to 11 no. conditions. Of relevance to this appeal is condition no. 2(a) which specifies that the east facing central dormer has opaque windows. The condition is silent in this regard to the other two dormer windows.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report on file, dated 20th January 2023, in summary, had regard to the following planning issues:

- Residential use is permitted in principle under the A zoning objective and that generally the extension of an existing dwelling is acceptable subject to Development Plan provisions.
- Given the distance between Wilmont Lodge and No. 9 Marine Avenue the potential for overlooking was slight and any potential loss of privacy would not be significant.
- The Planner's Report did not feel that either Appropriate Assessment or Environmental Impact Assessment was necessary in connection with the proposed development.

3.2.2. Other Technical Reports

- The Drainage Department had no objections to the proposed development subject to conditions.

3.2.3. Observations

Five observations were made in relation to this application and are summarised in the Planner's Report on file.

4.0 Planning History

4.1. On the Appeal Site

There is no planning history associated with the appeal site.

4.2. In the Vicinity of the Site

No planning history proximate to the appeal site and relevant to the issues raised in the appeal.

5.0 Policy and Context

5.1. Development Plan

Dun Laoghaire Rathdown County Development Plan 2022-2028 was adopted on the 9th and 10th of March 2022 and came into effect on the 21st April 2022. This is now the relevant statutory plan for the area.

The site is zoned Objective A for which the objective is to “To provide residential development and improve residential amenity while protecting the existing residential amenities”. Relevant policies contained in Chapter 4 Residential Development and Chapter 12 Development Management include the following.

Chapter 4 - Neighbourhood, People, homes and Places

4.3.1.3 Policy Objective PHP20: Protection of Existing Residential Amenity – Ensure that the residential amenity of existing homes in the built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.

Chapter 12 Development Management

12.3.7.1 Particular care will be taken in evaluating large, visually dominant dormer window structures, with a balance sought between quality residential amenity and the privacy of adjacent properties. Excessive overlooking of adjacent properties should be avoided.

12.3.7.5 Corner/Side Garden Sites – including subdivision of an existing curtilage to provide an additional house in a built-up area. The P.A, will have regard to parameters such as size, design, layout and relationship with existing dwelling; impact on adjoining properties, accommodation standards for occupiers, parking provision, adequate usable private open space and visual amenity. Subject to design and level of accommodation, there may be some relaxation in private open space and car parking standards.

5.2. Natural Heritage Designations

The following natural Heritage designations are located in the vicinity of the appeal site:

- South Dublin Bay SAC (000210)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Dalkey Island SPA (004172)
- Rockabill to Dalkey Island SAC (003000)

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any 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

The grounds of the Third Party appeal submitted by Peadar Nolan, SPACE, are, in summary, as follows:

- The scale and proximity of the east facing dormer windows will result in excessive overlooking of living/dining areas in No. 9 Marine Avenue and the private open space and will therefore result in a loss of privacy.
- The overlooking permitted by the Planning Authority is in breach of Section 12.3.7.1 of the Dun Laoghaire Rathdown Development Plan 2022-2028 which seeks to prevent excessive overlooking of adjacent properties when dormer windows are required.
- The dormer windows should be remodelled to reduce their size and hence their potential for overlooking.

- Condition 2(a) which requires opaque glass in the central dormer window should also be a requirement for the master bedroom dormer window [to the south of the central dormer].

6.2. Planning Authority Response

The Planning Authority response has no further comment on the case.

6.3. Applicant Response

The First Party response prepared by Kieran O'Malley & Co. Ltd., makes the following points:

- This is an urban area and some degree of overlooking will occur and is accepted by the Planning Authority as evidenced by multiple grants of permission in the area for similar type development.
- A degree of overlooking between the two properties in both directions already exists.
- The separation distance between the two properties is in excess of the 11m specified in the Development Plan.
- Condition 2(a) requires the use of opaque glass in the central dormer window where currently clear glass is in place. The First Party is happy to retain this condition if the Board grants permission.
- The southern dormer window lights a bedroom which is a nighttime use and therefore the potential for loss of privacy is low.
- The dormer window design is deep and therefore the views out of there windows is constrained further reducing the potential for overlooking.
- If required the windows of the master bedroom (southern dormer) can be of opaque glass.

6.4. Observations

None received.

6.5. Further Responses

Not applicable.

7.0 Assessment

- 7.1.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.
- 7.1.2. The primary planning issue therefore is whether or not the east facing dormer windows overlook No. 9 Marine Avenue to an extent that there is an unacceptable loss of privacy which would be contrary to Development Plan Policy contained in Section 12.3.7.1. The issue of AA Screening is also addressed in this assessment.
- 7.1.3. Overlooking/Loss of Privacy
- 7.1.4. Currently there is one dormer window facing east in the direction of the rear of No. 9 Marine Avenue which is approximately 16m from said dormer. This dormer has clear glass. It is proposed to add an additional two dormers to either side of the existing dormer and at the same height, i.e. the dormers will not be raised in level.
- 7.1.5. Section 12.3.7.1 of the Development Plan requires that “Excessive overlooking of adjacent properties should be avoided”. The First Party response states that the distance between the properties is in excess of the 11m requirement in the Development Plan and that loss of privacy is not a significant issue.
- 7.1.6. Firstly, the 11m distance the First Party makes reference to does not relate to the distance between dormer windows and neighbouring properties. The 11m separation requirement relates either to 12.3.7.6 Backland Development or to Section 12.8.7.1 both of which require a minimum rear garden depth of 11m in new developments. Any reference to 11m separation distance between the dormers and the rear of No. 9 Marine Avenue can therefore be disregarded.
- 7.1.7. Condition 2(a) of the Notification of Decision to Grant Permission requires that opaque glass be used for the central dormer window which lights a bathroom. This is a reasonable condition as it provides privacy for both parties.
- 7.1.8. The First Party has offered to install opaque windows in the southern dormer which lights the master bedroom. No mention is made of the northern dormer which lights another bedroom. Having regard to the fact that these bedrooms are not occupied for the majority of the day, and to the fact that there is a 16m separation distance

between the dormer windows and the rear of No. 9, the degree of overlooking to be anticipated would be minimal and would certainly not be considered “excessive” as per the Development Plan Section 12.3.7.1 criterion.

7.1.9. Accordingly I find that the Third Party case lacks substance and that the degree of overlooking to be anticipated is not unusual in an urban area and should not lead to any loss of privacy nor have an adverse impact on the residential amenity of neighbouring properties.

7.1.10. AA Screening

7.1.11. Having regard to the relatively minor development proposed within an existing housing estate and the distance from the nearest European site being approximately 2km, 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

I recommend that planning permission be granted for the reasons and considerations set out below and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Dun Láoghaire Rathdown Development Plan 2022-2028, including the zoning objective for the site (‘A – Residential’), which seeks to provide for residential development and protect and improve residential amenity; it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, or of property in the vicinity, would provide an acceptable standard of amenity for future residents, and not, by virtue of overlooking lead to loss of privacy in neighbouring properties. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 17th February 2023 and, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>Details regarding the opaque bathroom window and restrictions on the use of flat roofed extensions as terraces and any other screening required shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity and the protection of privacy.</p>
4.	<p>Surface water from the site shall not be permitted to drain onto the adjoining public road.</p> <p>Reason: In the interest of traffic safety.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>

	Reason: In order to safeguard the residential amenities of property in the vicinity.
6.	<p>The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

Bernard Dee
Planning Inspector

24th May 2023