



An
Bord
Pleanála

Inspector's Report ABP-315908-23

Development	Retention permission for the erection of a glazed balcony to the rear of existing dwelling. Permission for alterations to existing balcony and all associated site works.
Location	Wavecrest Drive, Blackrock, Co. Louth.
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	22986
Applicant(s)	Paula Tiernan
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Paula Tiernan
Observers	Alan Twibill & Mary McGinn
Date of Site Inspection	09 th June 2023
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.0979 hectares, is located at Wavecrest Drive to the south of Blockrock Main Street. The appeal site is occupied by a dormer style dwelling with a garden that extends eastwards to the sea front. Adjoining properties include a single-storey dwelling off Wavecrest Drive to the south whose garden also extends eastwards to the sea front to the south of the appellants property. To the east/north east is a single-storey dwelling (observers' property).

2.0 Proposed Development

- 2.1. Permission is sought for the retention of a glazed balcony to rear of an existing dwelling and permission for alterations to the balcony with the installation of 2m high privacy screens on the northern and southern side of the balcony. The balcony is at first floor level and is 4.2m wide and projects 0.6m from the rear elevation and has glass balustrades 1.3m high on three sides.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on one reasons...

1. The Policy objective HOU 34 of the Louth County development Plan 2021-2027, as varied, seeks "To encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment, residential amenities, surrounding properties, or the local streetscape and area climate resilient", and Chapter 13.8.35 (House extensions) of the Plan, insofar as it relates to privacy, states that "Extensions shall not result in any new opportunities for overlooking into properties where no previous overlooking existing unless appropriate separation distances can be achieved and the extent of overlooking from an existing property will not be significant increased because of the extension".

The applicant has not satisfactorily demonstrated that the balcony to be retained does not seriously injure and negatively impact on the residential amenities of neighbouring properties in the vicinity as a result of loss of privacy due to overlooking into properties where no previous overlooking existed, and hence the development is contrary to the above policy objective HOU 34, would set an undesirable precedent for other such unacceptable development in the vicinity and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (10/02/23): The proposal for a balcony of this nature was previously assessed and considered inappropriate and subject to a planning condition removing it (Condition no. 3 of 21/1527). The proposal would give rise to increased overlooking, have an adverse impact on adjoining residential amenities and would be contrary policy objective HOU34. Refusal was recommended based on the reason outlined above.

3.3. Third Party Observations

4 submissions from...

David Molloy

Alan Twibill and Mary McGinn

Kathleen Cotter

Andrea & Peter Boyle

- The issue raised related to the impact on residential amenity of adjoining properties as a result of overlooking/reduced privacy and non-compliance with previous permissions granted on site including a condition to remove the balcony in question.

4.0 Planning History

22/723: Retention permission for the erection of a glazed balcony to the rear of dwelling and full permission for alterations refused. Refusal reason to overlooking impact on adjoining properties and being contrary development plan policy (refused 27/10/22).

20/1052: Retention permission granted for alterations to an existing dwelling (granted 29/01/21).

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Louth County Development Plan 2021-2027.

The appeal site is zoned A1 Existing Residential with a stated objective 'to protect and enhance the amenity and character of existing residential communities'.

Policy Objective HOU 34

To encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment, residential amenities, surrounding properties, or the local streetscape and are climate resilient.

Section 13.8.35 House Extensions

Privacy – Extensions shall not result in any new opportunities for overlooking into properties where no previous overlooking existed unless appropriate separation distances can be achieved and the extent of overlooking from an existing property will not be significantly increased because of the extension.

5.2. Natural Heritage Designations

None within the zone of influence of project.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal lodged by Paula Tiernan. The grounds of appeal are as follows...

- The appellant considers that the Development Management Guidelines (DOHLGH) were not adhered to including appropriate assessment of the planning history and their general environs (section 6.7) and the failure to consider the merits of the proposal (section 7.15).
- The appellant are of the view that there is no difference in terms of overlooking from the proposed development over and above the baseline level associated with the development permitted under ref no. 201052. The appellant considers that non-material change in overlooking was not adequately considered by the PA as well as the fact the applicants/appellants are proposing to install either timber panels or opaque glazing to ensure no sideways overlooking.
- The PA assessment failed to consider the urban context of the site and the relevance of a permitted two-storey dwelling (ref no. 08732) to south east which features large levels of first floor glazing. The appellant also refers to other existing and permitted developments featuring first floor balconies (The Pavilion Apartments nearby) and two permitted SHD developments.
- The appellant notes that does not merit refusal in the context of Policy Objective HOU 34 as the proposal does not allow for increased overlooked above the permitted scenario under ref no. 201052 and having regard to the proposal for privacy screening along the each side.

6.2. Planning Authority Response

6.2.1 Response by Louth County Council: The PA consider that the proposal for retention does represent a material change in level of overlooking (increased) over that permitted under ref no. 20/1052 and requests that the Board uphold the decision to refuse.

6.3 Observation

6.3.1 An observation has been received from Alan Twibill & Mary McGinn, Asylum, Wavecrest Drive.

- The observers' state that the appeal is not accurate is stating that there is no material change in overlooking with the baseline scenario.
- The development overlooks amenity space associated with the observers' property and impacting adversely on residential amenity subsequently devaluing their property.

7.0 Assessment

7.1. Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Design, scale and Development Plan policy.

7.2 Design, scale and Development Plan policy.

7.2.1 The proposal entails retention of a first floor balcony on the rear of an existing dormer style dwelling. The balcony project 0.6m from the rear elevation and is 4.2m wide featuring a 1.3m high glazed balustrade. In addition to retention permission is sought to amend the development with the provision of 2m high privacy screens on each side of the balcony. Permission was granted under ref no. 20/1052 for retention of alterations to an existing dwelling. Under this permission the first floor living space

was permitted with a large glazed section and a juliet balcony and glass balustrade flush with the rear elevation. Retention for the balcony has been refused previously under subsequent application, ref no. 22/73 with condition no. 3 requiring removal of the balcony and provision of the arrangement permitted under ref no. 20/1052 (juliet balcony with glass balustrade flush with the rear elevation).

7.2.2 The appellant arguments in favour of the proposal relate to the view that the proposal is non-material in the level of overlooking of neighbouring properties over and above the permitted arrangement which provides for the same level of window and door opening on the rear elevation and a juliet balcony. The appellant intends to reduce impact by providing 2m privacy screen on each side and highlights the urban context of the site and the fact there are balconies on other properties in the area and a permitted dwelling under construction to the south east with significant glazing.

7.2.3 Having inspected the site I would be of the view that the proposal is a significant material change from the permitted level of development. I would acknowledge the level of window/door opening on the rear elevation at first floor level is unchanged from that permitted, however the balcony for retention is a sizeable and useable external area that projects from the rear elevation. The balcony area does allow for increased overlooking of adjoining properties by virtue of the fact it projects beyond the rear building line and has a sizeable area, which facilitates a higher level of external activity at first floor level. I would be of the view that the balcony for retention would allow for a significant increase in overlooking over and above the permitted situation and is an intrusive element at this location having regard to its location and proximity to adjoining properties. In this regard I would be of the view that the proposal for retention would be seriously injurious to adjoining residential amenities and would be contrary to development plan policy objective HOU 34 which seeks “to encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment, residential amenities, surrounding properties, or the local streetscape and are climate resilient”.

7.2.4 I would acknowledge that the appellants are proposing to erect privacy screens on either side of the balcony and that such would reduce the ability to overlook to the north and south, however I would still be of the view that the projecting nature of the structure taken in conjunction with its size facilitating external access at first floor and as useable external space would have an unduly intrusive impact and allow for increased overlooking above that of the permitted development on site, be injurious to residential amenities and contrary development plan policy.

7.2.5 I would acknowledge that the is in an urban context and that preservation of level of privacy is not always possible, however I would consider that the proposal has disproportionate impact due to the level of external space, its projecting nature and its positioning relative to adjoining properties. I make this assessment based on the merits of the proposal sought, based on my site inspection and the relevant documents part of the application and would consider that the proposal in this case would be contrary to the proper planning and sustainable development of the area.

8.0 Appropriate Assessment

8.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, 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.

9.0 Recommendation

9.1. I recommend a refusal based on the following reason.

10.0 Reason and Considerations

1. Having regard to the nature and scale of the proposed development, the balcony for retention is significant in size and projects beyond the rear building line of the existing dwelling to an extent that it would facilitate increased levels of overlooking of adjoining properties, a level of useable external space elevated relative to adjoining

properties and be a significantly intrusive element due to its proximity of existing residential properties to the extent that it would be seriously injurious to existing residential amenities. The proposed development would also be contrary development policy objective HOU 34, which seeks “to encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment, residential amenities, surrounding properties, or the local streetscape and are climate resilient”. 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.

Colin McBride
Senior Planning Inspector

12th June 2023