



An
Bord
Pleanála

Inspector's Report ABP-321187-24

Development

Full planning permission sought for proposed dormer roof window and three rooflights to front part of roof (facing southwards) with attic roof space conversion, associated internal and external alterations to dwelling house, house under construction as per granted permission F21A/0187.

Location

Whistler, Carrickhill Road Upper, Portmarnock, Co. Dublin

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F24A/0736

Applicant(s)

Ken Nagle.

Type of Application

Planning Permission.

Planning Authority Decision

Grant Permission.

Type of Appeal

Third Party

Appellant(s)

Alan Nagle.

Observer(s)

Paraic Andrew Conlon (Portmarnock Management Company LbG).

Date of Site Inspection

3rd of February 2025.

Inspector

Elaine Sullivan

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1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.18 ha and is located on the north-eastern side of Carrickhill Road Upper in Portmarnock, Co. Dublin. It is set back from the road by approximately 60m with ground levels rising steeply from the vehicular entrance along Carrickhill Road Upper to the northern boundary of the site. A house is currently under construction on the site, (permitted under F21A/0187) with another house under construction on the site to the front (permitted under ABP-309716-24, PA Ref. F20A/0514). Both properties share access from the road.
- 1.2. Land adjoining the site to the west comprises an access road and car parking area serving the residential development known as 'The Quarry' with some detached houses facing onto the access road. The Quarry apartments extend behind the subject site and around the northern site boundary with an area of open space to the north of the site. Detached houses are located to the east and south of the site. The subject site is at a significantly higher level than the apartment development and has mature trees and dense planting along its north and western boundary.

2.0 Proposed Development

- 2.1. Planning permission is sought for a dormer window and three rooflights to the front part of the roof (facing southwards) with the conversion of the attic roof space to games room to a house currently under construction and permitted under Reg. Ref. F21A/0187.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority (PA) granted permission for the development subject to 10 no. planning conditions which were mainly standard in nature.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- The report of the Planning Officer (PO) considered that the development would have an acceptable visual impact and that there would be sufficient separation with adjacent properties to prevent overlooking of adjoining properties.

3.2.2. Other Technical Reports

- **Conservation Officer** – Third parties referred to a lime kiln on the site. The Conservation Officer (CO) noted the remains of a historic lime kiln to the front of the house. As the application is for amendments to the roof and interior of the dwelling, these are the only elements that can be considered in conservation terms.
- **Water Services** – No objection.

3.2.3. Conditions

- Condition No. 2 relates to the positioning of the dormer window and requires that,

The proposed dormer structure shall be amended to be set down c. 300mm from the main ridge of the dwelling.

REASON: In the interest of proper planning and sustainable development of the area.

- Condition No. 4 relates to the location of the site in Noise Zone B of the airport and requires that,

That the proposed extension be provided with noise insulation to an appropriate standard, if required, having regard to the location of the site within Zone B associated with Dublin Airport.

REASON: In the interests of proper planning and sustainable development and residential amenity.

3.3. Prescribed Bodies

Daa – The development is in Dublin Airport Noise Zone B and in the Outer Public Safety Zone for the airport. Daa requests that the PA have regard to Objectives

DA011, DAO18 and DAO19 of the FCDP which relate to the control of noise sensitive development in Zones A, B, C and D, and in the Public Safety Zones.

3.4. Third Party Observations

- One third party observation was received by the PA. The concerns raised related to the visual impact on adjoining properties, loss of view, overlooking and the impact of the development, on the historic lime kiln on the site.

4.0 Planning History

ENF: 24/217 – A Warning Letter pursuant to Section 152 of the Planning and Development Act 2000 (as amended) was issued on the 16th of October 2024 regarding alleged unauthorised development comprising a dormer roof window and the installation of three rooflights to the rear part of the roof (facing northwards).

F21A/0187 – Planning permission granted for modifications to development approved under Ref. F16A/0100 comprising internal modifications to the layout, alterations to the roof profile and external elevations, retention permission for the relocation of the entrance of the existing house Rustic Lodge and remodelling of gardens to the new house Whistler with associated ancillary works.

F16A/0100 – Planning permission granted for the construction of a two-storey detached dwelling of 239.5 sq. m. on a site adjacent to existing dormer bungalow with all associated works.

5.0 Policy Context

5.1. Fingal County Development Plan 2023-2029

The subject site is zoned RS – Residential, the objective of which is to, *‘Provide for residential development and protect and improve residential amenity’*.

Section 14.10.2 – Residential Extensions

14.10.2.5 - Roof Alterations including Attic Conversions and Dormer Extensions

- 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.
- Excessive overlooking of adjacent properties should be avoided.

5.2. **Natural Heritage Designations**

5.2.1. No designations apply to the subject site.

5.3. **EIA Screening**

The development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended), and therefore is not subject to EIA requirements. (See Form 1 Appendix 1).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal include the following,

- The appellant is concerned that the location of the dormer window and rooflights would result in overlooking of their property which would lead to loss of privacy.
- The appellant submits that the wording of the public notices did not fully describe the works proposed and was misleading.
- Enclosures with the appeal included several photographs and copies of correspondence to the PA.

- The appellant raises a concern that rooflights on the rear (northern) elevation of the roof are not in compliance with previously permitted development. An issue is raised regarding whether the openings should be referred to as windows or rooflights given their positioning in the roof and a concern is raised regarding the impact on adjoining privacy as a result of overlooking.

6.2. Applicant Response

A response was received from the applicant on the 2nd of December 2024 and includes the following,

- The appellant refers to 3 no. north-facing roof lights on the property under construction and implies non-compliance with previously approved permission. The north facing roof lights referenced are entirely unrelated to the current planning application which specifically concerns the addition of three roof lights and a dormer on the south facing roof.
- It is the applicants understanding that rear and side facing roof lights generally do not require planning permission under section 4(1)(h) of the Planning and Development Act 2000 and is satisfied that the rooflight to the rear of the property comply the applicable planning regulations.
- The applicant requests that the planning authorities assess the appeal based on its merits and in consideration of the planning issues related to the application.

6.3. Planning Authority Response

A response was received from the PA on the 29th of November 2024 and notes the following,

- The development was assessed regarding the Development Plan zoning objective, as well as the impact on adjoining neighbours and the character of the area.
- Concerns set out in 3rd party objections were acknowledged and considered. The planning authority contends that the description of the development

provided is not misleading and corresponds to the proposed plans and details submitted as part of the application.

- The PA request that the Board uphold their decision.

6.3.1. **Observations**

One third party observation was received from Mr. Paraic Andrew Conlon on behalf of the Board of Directors, Portmarnock Management Company LbG, The Quarry Apartments.

The observation included the following,

- An issue is raised regarding three rooflights to the rear of the roof plane (northern elevation) and whether the openings should be referred to as windows or rooflights.
- The observation is also concerned that the rooflights on the northern elevation would result in overlooking of the apartments on the adjoining site.
- Enclosures with the observation include photographs taken from the common areas of the apartments and extracts from the planning application documentation.

7.0 **Assessment**

7.1. The issues raised can be addressed under the following headings.

- Principle of Development
- Procedural Issues
- Impact on Residential Amenity

7.2. **Principle of Development**

- 7.2.1. The proposed attic conversion, dormer window and roof lights are acceptable in the RS zoning objective.

7.3. Procedural issues

- 7.3.1. The appellant considers that the wording of the public notices for the application was misleading and did not fully explain the development for which permission was sought. Concerns were also raised that unauthorised development had occurred on the site and that windows on the northern roof plane were installed without the benefit of planning permission.
- 7.3.2. In terms of the procedural matters and the issue raised regarding the site notices, I note that the notices were considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from making representations. The issue of alleged unauthorised development is a matter to be dealt with by the PA and does not fall within the remit of this appeal. I note that the planning history for the site includes a reference to an Enforcement File which relates to the site. For the purposes of this appeal, the Board may not concern themselves with allegations of unauthorised development. Therefore, the appeal will be assessed based on the information at hand and will relate to the development as listed in the application documents.

7.4. Impact on Residential Amenity

- 7.4.1. The proposed development relates to alterations to the roof of a house which is currently under construction, and which was permitted under PA Ref. F16A/0100 and F21A/0187. Although the application contains no alterations to the northern plane of the roof, the appellant is of the opinion that the roof lights applied for to the south of the roof are being swapped or installed to the north of the roof. In their response, the applicant is clear that this is not the case. The works proposed in the application relate only to the southern roof profile and do not include the northern roof profile. The applicant submits that the roof lights on the northern elevation do not require planning permission represent exempt a development under the conditions of

Section 4(1)(h) of the Planning and Development Act 2000 (as amended). Therefore, they do not form part of the subject application.

- 7.4.2. The core issue of the appeal relates to the impact of the proposal on the privacy and residential amenity of the apartment development on the adjoining site to the north. The proposed alterations to the house comprise a dormer roof window and three roof lights on the southern roof plane. There would be a separation distance of c. 40m between the subject development and the rear of the house under construction to the south of the site. Notwithstanding the difference in levels between both houses, I consider the separation distance to be sufficient to prevent overlooking or loss of privacy.
- 7.4.3. A concern was raised in the appeal that the proposed conversion of the attic space to games room would result in loss of privacy or overlooking from the rooflights on this elevation. Having visited the site and reviewed the drawing, I am satisfied that the apartments to the rear of the subject site would not experience a loss of residential amenity in terms of overlooking. There is a separation distance of c. 32m between the rear elevation of the subject house and the closest point in the apartment block, which would be sufficient to prevent overlooking. The subject development is also at a higher elevation than the apartments with both sites separated by dense shrubs and mature trees. Therefore, I am satisfied that the separation distance, the difference in level, the angle of sightline from the attic and the dense planting would be sufficient to prevent overlooking or loss of privacy to the apartments to the rear of the site.
- 7.4.4. I am satisfied that the scale of the works is acceptable and would not result in any loss of amenity or visual impact. I note that Condition No. 2 of the PA's decision requires that the proposed dormer window be set down by c.300mm from the main ridge of the dwelling to prevent the structure from appearing dominant in the roofscape, to accord with other planning applications in the area, (PA. Ref. F24A/0737 and F24A/0738) and to comply with the provisions of Section 14.10.2.5 of the Development Plan. Condition No. 4 relates to the location of the development within Noise Zone B. These conditions are acceptable as they relate to the requirements of the Development Plan.

8.0 AA Screening

- 8.1. I have considered the proposed works to the attic and roof of a house in Portmarnock in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is located in an urban area in the village of Portmarnock and is 0.75km from the nearest European Site which is the North West Irish Sea SPA (Site Code 004236) and the Malahide Estuary SAC (Site Code 000205).
- 8.3. The proposed development comprises external works to the roof of a house currently under construction and internal works to convert the attic space to games room.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Nature of works e.g. small scale and nature of the development
 - Location-distance from nearest European site and lack of connections
- 8.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that planning permission is granted for the development.

10.0 Reasons and Considerations

Having regard to the nature of the proposal for a dormer window, three rooflights and the change of use from attic to games room to a dwelling under construction and located in a RS – Residential zoning objective, which seeks to *‘Provide for residential development and protect and improve residential amenity’*, it is considered that by

virtue of its nature and scale, the proposal is in accordance with the policies and objectives of the Fingal County Development Plan 2023-2029 and in particular with Section 14.10.2.5 which relates to roof alterations. It is considered that subject to the conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity; would not seriously injure the development potential of neighbouring property; or seriously injure the value of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

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| 1. | <p>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.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>The proposed development shall be amended as follows;</p> <p>a. The proposed dormer structure shall be set down from the main ridge of the roof by 300mm.</p> <p>Reason: In the interest of visual impact and orderly development.</p> |
| 3. | <p>The proposed extension shall be provided with noise insulation to an appropriate standard, if required, having regard to the location of the site within Zone B associated with Dublin Airport.</p> <p>Reason: In the interests of proper planning and sustainable development and residential amenity.</p> |

| | |
|----|---|
| 4. | <p>The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing structure in respect of colour and texture.</p> <p>Reason: In the interest of visual amenity.</p> |
| 5. | <p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 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> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p> |
| 6. | <p>The site development work and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material.</p> <p>Reason: In the interests of orderly development and to ensure that the adjoining roadways are kept in a clean and safe condition.</p> |
| 7. | <p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p> |

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.

Elaine Sullivan
Planning Inspector

3rd of February 2025

Form 1

EIA Pre-Screening

| | | | |
|--|--|-----------------------|---|
| An Bord Pleanála Case Reference | ABP-321187-24 | | |
| Proposed Development Summary | Full planning permission sought for proposed dormer roof window and three rooflights to front part of roof (facing southwards) with attic roof space conversion, associated internal and external alterations to dwelling house, house under construction as per granted permission F21A/0187. | | |
| Development Address | Whistler, Carrickhill Road Upper, Portmarnock, Co. Dublin | | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings) | | Yes | Tick if relevant and proceed to Q2. |
| | | X | |
| | | No | Tick if relevant. No further action required |
| | | | |
| 2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)? | | | |
| Yes | N/A | State the Class here. | Proceed to Q3. |
| No | X | | Tick if relevant. No further action required |
| 3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class? | | | |

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|--|-----|--|---|
| Yes | N/A | State the relevant threshold here for the Class of development. | EIA Mandatory EIAR required |
| No | N/A | | Proceed to Q4 |
| 4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]? | | | |
| Yes | N/A | State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold. | Preliminary examination required (Form 2) |

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| 5. Has Schedule 7A information been submitted? | | |
| No | N/A | Pre-screening determination conclusion remains as above (Q1 to Q4) |
| Yes | N/A | Screening Determination required |

Inspector: _____ **Date:** _____